

LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
Board of Supervisors Workshop
April 18, 2018

A workshop of the Supervisors of Lely Community Development District was held on Wednesday, April 18, 2018 at 1:00 p.m. at the LCDD Maintenance Building.

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

ALSO PRESENT: W. Neil Dorrill, Dorrill Management Group, Manager and
Assistant Secretary
Kevin Carter, Dorrill Management
Keith Gelder, Master HOA, Stock Development
Chris Mitchell, Stock Development
Terry Cole, District Engineer
Tony Pires, District Counsel

WORKSHOP: Turnover/Lely Resort Master HOA

The Board members were advised that the head of Transportation, Mr. Ahmad, was unable to attend today's workshop due to another obligation, and Mr. Gelder indicated that he would like to address the Board on the upcoming turnover.

Mr. Dorrill opened the workshop, indicating that Mr. Gelder represented the Master HOA. Discussions have been held lately regarding combining and enhancing certain responsibilities at Lely, specifically as it relates to capital assets and operating responsibilities. Aside from enforcing the Declaration documents and being responsible for architectural review, the Master HOA owns a significant amount of conservation area in the community, and they are responsible for holiday lighting. They own certain lakes that are being maintained by the District, and they will be involved later in the spring in the community's first lake restoration project.

Mr. Gelder recently contacted Mr. Dorrill and suggested that a joint discussion in a public forum be held to discuss their upcoming plans for transition of the Master HOA and the possibility of

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some asset transfers. Mr. Gelder indicated that Lely is quickly reaching the end of development, and they have begun preparing for turnover. There is a lot of coordination to be done among the Master HOA, the developer and the CDD, one of which is the turnover of common areas from Stock Development and the Lely Development Corporation. There are approximately 50 parcels of land scattered throughout Lely, The research on the land ownership permits began a couple of years ago, and they are presently working on property ownership.

Ownership of these lands has happened in many different ways, for instance, from dedication of the lands from one party to another. Mr. Gelder indicated that his goal is to step back and take an approach that would include all the properties. It did not make a lot of sense to transfer the lands as they are presently dedicated, and Mr. Guider recommended, based on his research and that of the engineer for Lely Development Corporation, the option of any common areas presently owned by either developer, that are within the CDD boundaries, will be transferred to the CDD for ownership. Any land outside the CDD boundary will go to the Master.

In terms of the maintenance of most of these lands, they are going to be covered in some fashion by the CDD's present or future operating budget, through the CSA.

With respect to ownership, control of some properties may or may not be of interest to the CDD. There are quite a few properties that come in various shapes and forms, and Mr. Gelder thought that he could get a feel for the Board's thoughts on this so they can move forward. He understood that both the Master and CDD Boards will want their engineers to inspect the properties, check easements, review the titles, and so on. There are many steps that will have to be taken.

Mr. Lee commented on the confusion among the residents as to who owns what, and it was his opinion that the CDD should take over all of the properties. That way there will be one entity doing the work, one bill will be paid, and the Master Association will have nothing further to do with collecting the CSA fees.

Someone had asked him why the CDD does not take over the other part of Lely, and to Mr. Lee's knowledge the law indicates that you can only annex 1,500 acres. Mr. Pires indicated that the number used to be 250 acres, but that number has changed.

Mr. Dorrill then introduced Terry Cole, District Engineer, and noted that they were primarily talking about conservation and preserves areas, and potentially the dog park. Additionally there are the submerged lake bottoms for which there is an identifiable parcel and deed restriction.

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Mr. Dorrill indicated that this was a good conversation to have, and added that Mr. Pires had been through something similar to this at Gateway, a large CDD in Fort Myers. Mr. Dorrill noted that Stock had done a very good job monitoring and removing exotics which was their obligation to the South Florida Water Management District. However, certain conservation lands, specifically the one behind Ole, was never conveyed, and has some significant exotic issues on the southern end.

Mr. Dorrill stated that he has two thoughts about land transfers. CDDs enjoy sovereign immunity protection against liability claims that a not-for-profit HOA does not. As a result of that, commercial insurance rates as applied to CDDs are lower than those of rates applied to corporations. The other benefit CDDs have is buying power, as they attach quite a bit of their purchases to the State contract and are exempt from sales taxes and most gasoline taxes.

Mr. Pires added that in these land transfer situations, it is important to know that there may be platted tracts that have surveys showing encroachments either on the platted tract or from that platted tract onto other areas. There may also be title commitments for them. In some cases the original declarant made the property that was supposed to be given to the CDD subject to the declaration, and Mr. Pires felt that those pieces needed to be carved out, as he did not feel that the District should be subject to any HOA or Master Association design or covenants. Those are the types of things that will have to be looked at, but once that is done, the transfer process is a relatively simple one.

Mr. Cole noted that they had met the previous year and talked about the lake erosion projects, and the contractor will be back in Lely the following week working on this project. About \$600,000 of work has been identified which was split between the CDD and Master owned lakes. The Board's direction at that time was that the CDD would accept a lake that was under the Master's control once the erosion situation had been taken care of, such as with Lakes 4 and 9 which will be done within the next few months. Additionally there are four South Florida Water Management District's applications that are pending, with some lake repairs or easements that are needed.

As it relates to preserves, some of them have exotic vegetation that has been in place for years, and he felt that the CDD would be hesitant to take hose over until they are in compliance with mitigation and monitoring and the County vegetation removal requirements.

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Mr. Lee then pointed out to those present that the District is a quasi-governmental agency, and fall under the State's guidelines as it relates to the Sunshine Law, and outside monitoring of the books on a yearly basis, along with other requirements.

Mr. Dorrill stated that the roadway tract into Lely is also owned by the Master HOA or Stock Development and that is an area that would have to be considered as well. He then asked the Board if they had any questions for Mr. Gelder or Mr. Cole.

Mr. Ousley added that Mr. Boff and Lely Development own quite a bit of scattered properties all over Lely, and a determination needed to be made on them as well. Mr. Cole advised that he has those details and will provide them to the Board members. Mr. Dorrill asked if any of those properties were encumbered by the long term land lease that the golf management company has, and Mr. Gelder did not know the answer to that, and noted that this will have to be looked at by the Lely Development Corporation, and they will have to get some sort of release and coordinate with the lessee on it.

Mr. Lee added that they had three areas at Mustang Island that he took care of when he was on the Board there, two of which were adjacent to the cart path. Mustang Island spent about \$3,000 cleaning up those lots, landscaping and maintaining them with a maintenance agreement with Mr. Boff and others. There are several of these lots around, and Mr. Lee suggested that if they are adjacent to a community, that the community should take care of it, as they have a vested interest.

Mr. Drum suggested that before the Board takes on any responsibility for anything the Master Association has been maintaining, there are a few things that the Board may not want to take over. For instance, someone will have to be employed to supervise the holiday decorations. He wanted to make sure that the Board does not take on anything that would cost them money and they would not have anything to say about it. (Inaudible section)

Mr. Ousley also noted that they have roughly 102 lakes, and they don't own all of them. If they don't own a particular lake they cannot spend District money to maintain it. It will be important to get lake ownership straightened out as well.

Mr. Cole felt that they were well on their way to determining the lake ownership issues, and that most of the lakes were in good condition. Those that were not have been expedited and are being taken care of now. He felt that the Board had a perfect basis for a long term

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maintenance plan. One of the clarifications that Mr. Cole is still looking for is if the CDD can own lakes outside of the District boundaries.

Mr. Pires noted that ownership is different than operation and maintenance, and described it as part of the backbone of the South Florida Water Management District. The other question he would have is what properties discharge into that lake, if they are properties outside or within the CDD boundaries. Mr. Cole noted that most of the area outside of the CDD boundaries has a separate control structure, and spills down into a receiving lake outside of the boundaries. An example of that would be Lakoya, which has its own control structure for discharge. (Overtalk)

Mr. Lee asked if Lely Development retained mineral rights under the lakes, and Mr. Pires noted that many years ago he spoke to Bill Blackwell, who at that time was counsel for the Colliers. He indicated that there should not be too much concern over oil, gas and mineral rights as it is a complicated process involving multiple permits, and generally speaking, it should not be a concern.

Mr. Lee also noted that he had a concern about the lakes that are contiguous to the golf courses, some of which have CDD maintenance easements. He wondered if there would be a problem with the American Golf Association if the District took ownership of all the lakes. Mr. Dorrill indicated that he had made a note to look into that.

Mr. Pires added that the historic flow is from north to south as Mr. Dorrill had indicated, and that is how the South Florida Water Management District permits. Situations can occur, such as Mercato, which is adjacent to Pelican Marsh, and their water flows to the east, into Pelican Marsh. In that case the Pelican Marsh CDD has an agreement to maintain the water management system, as any adverse impacts on that water management system impacts Pelican Marsh as well.

Mr. Dorrill asked Mr. Cole if he knew whether other hard assets, such as the street lights on Lely Cultural Boulevard that the CDD maintains through the CSA, are considered to be the property of the Master or the CDD. In other words, would a bill of sale be required to transfer certain hard assets. He felt that they had probably been paid for by Stock. Mr. Cole felt that they would have to be transferred, and the research will have to be done on that. Mr. Pires added that there have been situations where streetlights are tied into a neighborhood or association. (Inaudible section)

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(Mrs. Bularzik's comments were inaudible.)

Mr. Guilder indicated that he had spoken to *** and that they are working together to coordinate this. Some of these parcels may be best suited to be deeded to the individual associations as it only benefits them, and the CDD may not have an interest in taking it for expense or access reasons. This is something that they will look at closely as they address these individual properties, and he expects that the Master and CDD Boards will do the same.

Ken ***Parr from Ole noted that presently the Master HOA has the responsibility and permit for the maintenance of their stormwater treatment system, and has refused to maintain that system. He asked if that was one of the permits that is going to be transferred to the CDD, and Mr. Dorrill advised that it had not been transferred, but that he assumed that it was part of the inventory, and agreed that it needed to be part of the inventory and assessment.

Mr. ***Maines, also from Ole, emphasized that a transfer of the surface water permit is required under that permit, and is also necessary in terms of where the residents of Ole can go to appeal for necessary maintenance and proper drainage of the properties.

Bill *** from Legacy asked what the owner/resident access to lakes is, and if it was possible, for instance, to take a kayak out on one of the lakes. The lake at Legacy has two sides, and one side forbids trespassing while the other says it is for residents only. Mr. Dorrill advised that he was not familiar with the Legacy's Declaration and whether on lake recreational activities are permitted. Fishing within the CDD's lake maintenance easement is prohibited for liability reasons. The no trespass agreement is on file with the Sheriff's Department to enforce, in particular, non-resident fishing occurring within that lake maintenance easement.

Mr. Lee added that this issue has been discussed at several meetings, and residents have agreed that they don't want strangers walking around in their back yards. Originally it was not a problem, as there were fewer homes, but Lely is approaching 5,000 homes. Including the apartment complexes, there are over 10,000 people in Lely, and there are 14 restaurants in the area and the Publix supermarket. With all of those people, it has become a safety issue as well.

Mr. Dorrill asked that the gentleman from Legacy speak to one of the gentlemen who were making today's presentation during the break about using kayaks on the lake.

A short recess was then taken in proceedings.