

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
BUDGET HEARING AND REGULAR MEETING
OF THE BOARD OF SUPERVISORS
August 15, 2018**

The Budget Hearing and regular meeting of the Lely Community Development District Board of Directors was held on Wednesday, August 15, 2018 at 1:30 p.m. at the LCDD Maintenance Building, Naples, Florida.

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

ALSO PRESENT: Neil Dorrill, Dorrill Management Group
Kevin Carter, Dorrill Management Group
Tony Pires, District Counsel
Freddy Bowers, Operations Manager

ROLL CALL/APPROVAL OF AGENDA

All Members were in attendance, and **the Agenda was unanimously approved on a MOTION by Mr. Campkin and a second by Mr. Ousley**

APPROVAL OF PROPOSED 2018 GENERAL FUND BUDGET

A. Resolution 2018-3

This Resolution, adopting the final, general fund budget for the Lely Community Development District for Fiscal Year 2019, **was unanimously approved on a MOTION by Mr. Ousley and a second by Mr. Campkin.**

B. Resolution 2018-4

This Resolution, levying a maintenance assessment within the Lely Community Development District for Fiscal Year 2019 of \$2,502,357 against the eligible properties, **was unanimously approved on a MOTION by Mr. Ousley and a second by Mr. Drum.**

The Chairman was also unanimously approved to sign these two Resolutions

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The Budget Hearing was then adjourned, and Mr. Lee noted that they were moving on to the general meeting.

INVOCATION/PLEDGE OF ALLEGIANCE

The invocation was offered by Mr. Dorrill, and the Pledge was recited in unison.

PUBLIC COMMENT

Mr. *** asked for a timeline on the replacement of shrubs and trees throughout the District, and Mr. Dorrill advised him that the Board had retained a landscape architect, Ellen Goetz, at their June meeting, and she is preparing some concept drawings of groupings of plants and shrubs to replace the Queen Palms that came down during the hurricane. Mr. Dorrill anticipated that those plans will be available sometime later this year, in September or October, at which time the Board will make some funding decisions and put it out to bid during the first quarter of the new year.

FEMA will not pay for landscaping replacement, and they are not insurable assets, so the District will be paying for this. At this point in time, the Board is not contemplating a special assessment to pay for it. Mr. Lee added that FEMA has paid its portion of the reimbursement to the State, which is still going through its process. It is anticipated that those funds will be received by the end of the year.

Mrs. Bularzik asked the Board members what their perception was of the traffic after the work done by the Classics. Mr. Lee indicated that he had not seen any difference so far,

***not sure of Mrs. Bularzik's full comments – inaudible

ROLL CALL/APPROVAL OF AGENDA

All Board members were in attendance, and with the addition of items 7A, Stormwater Letter from Collier County; 7B, Master HOA Management firm; 7C, Website Lawsuit; 7D, Lamp posts on Wildflower; 7E, Street Signs Maintenance; 7F, Painting of Sign Posts; 7G, Community Comments re: Employees; 7H, Addition to Rules and Policies regarding Stormwater and Sewer maintenance procedures; and 7I, Radar Detectors, **the Agenda was unanimously approved on a MOTION by Mr. Campkin and a second by Mr. Drum.**

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APPROVAL OF MINUTES OF JULY 2018 WORKSHOP AND REGULAR MEETING MINUTES

As it relates to the Workshop Minutes, on Page 4, in the last paragraph of the second section, it should properly read that if there are 28 months or more remaining in the term, it will go to election. If there are less than 28 months, the Governor fills the vacancy.

On a MOTION by Mr. Ousley and a second by Mr. Drum, the Workshop minutes were unanimously approved by the Board as corrected.

As it relates to the Regular Meeting Minutes, on Page 2 the starred name in the first and second paragraphs is Al Lost.

On Page 4, in the fourth paragraph, the word “assessable” should read “accessible”.

On a MOTION by Mr. Ousley and a second by Mr. Drum, the Regular Meeting Minutes were then unanimously approved by the Board as corrected.

MANAGER’S REPORT

A. July Community Patrol

There continues to be no off duty officers patrolling the District, and Mr. Dorrill expects to hear more information on this very soon.

There were 54 occurrences at the District during July, including seven incidents of loitering, noise complaints, suspicious vehicles, coconut removal, loitering around the high school and one sleeping homeless person. There were 19 trespassing referrals involving fishing in and around the District lakes, all of which involved non-residents.

There were also ten gate problems at private communities that were reported, and 13 traffic related assists.

Mr. Campkin asked Mr. Bowers to have his crew keep an eye on some of the big vehicles that were roaming around Lely recently as there is some damage being done to the roadways.

B. Letter to Sheriff Re: Special Duty Assignments

This letter was written to Sheriff Rambosk at the Board’s request as to when they could expect to see the special duty officers back at Lely, and at the same time thanking him for the excellent law enforcement he provides to the community. In the past year he has handled a Category 3 hurricane as well as the heightened awareness of the need for school security.

Although he has not yet heard back from the Sheriff, both Mr. Dorrill and Mr. Pires feel that he will respond to them in the near future, giving them some indication as to when the special duty patrols will be restarting at Lely.

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C. Audit Engagement Renewal

The independent audit contract for 2019 with Nathan Phillips was up for renewal, and there will be no increase in fees for 2019, and the cost remains at \$16,000. **On a MOTION by Mr. Ousley and a second by Mr. Campkin, the Board unanimously approved renewing the auditor’s contract, and authorized the Chairman to sign the necessary paperwork.**

D. Quote for New Blower

This turbo engine blower that clears the roadways and sidewalks needs to be replaced, and the price was obtained through a state contract from Wesco Turf. The price including delivery is \$6,940.

The previous machine was maintained by a mechanic that used to be on staff, but at this point does need to be replaced. The new machine can be remotely controlled if the operator wishes to do so.

On a MOTION by Mr. Ousley and a second by Mr. Drum, the Board unanimously approved the purchase of the new blower.

ATTORNEY’S REPORT

A. Memorandum Re: Warning about Alligators

The Board members received a memorandum from Mr. Pires advising them of the State of Florida’s law on this matter. In May there were five alligator calls in the District, and Mr. Pires recommended that they have placement of clear warning signs around the various lakes. He was not suggesting that a forest of signs be put in place, but at certain spots, such as at the entrance of the community, it would be appropriate. This way people will become more aware of the large population of alligators at Lely.

The District does not reduce them to possession, entice them or introduce them into the lakes at Lely, so those three parts do not apply. Mr. Pires noted that the FWC, Florida Wildlife Commission, website displays red signs that advise you not to feed the alligators and to have caution. Mr. Pires added that you cannot totally insulate yourself against someone making a claim and instituting a lawsuit, but signs should be posted in the certain lakes and ponds where reports of alligators have been made to reduce potential liability.

The workers in the area should also be advised that they should not feed the alligators. This includes both District workers as well as those who come in to do work. Mr. Pires stressed that this is important, as the alligators learn not to fear people if they are fed by them. He added that this is something the developer of Lely should be advised of as well.

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Mr. Dorrill noted that historically the biggest problem was at the area known as the beach, which is across from the Lely Freedom Homes. This area continues to be used by some people as a picnic area, and there were signs posted there. From there around to the weir where it goes under US 41 is a primary area as well.

Mr. Lee added that the road behind Lely Island Estates going into Kmart is also an area that is problematic, and signs have been posted there. Mr. Dorrill noted, then, that the primary areas would be in and around Tiger Island and Lely Island.

Mr. Dorrill advised Mr. Bowers that if in the normal course of his patrol he encounters construction workers taking their lunch break in and around lake areas, they should be advised not to leave food around to feed the alligators.

B. Follow-up on Mr. Bryant's Estate

Mr. Pires spoke to counsel for the estate, and advised him of the Board's sentiments on this matter, which was appreciated. Mr. Pires will be working with Mr. Dorrill to get an estimated number based upon past billings, excluding significant events that may have taken place. They will then suggest that number to estate counsel.

C. ADA Issues

Mr. Pires noted that this was not his area of expertise, but the District's carrier retained counsel who filed a notice to dismiss. Mr. Pires did not send this to the Board as there have been other discussions since that time. A webinar Mr. Pires recently attended put on by a Florida insurance agency that represents many CDDs, which talked about this plaintiff who had sued 102 CDDs and private entities regarding ADA issues.

The law firm representing many of the defendants has moved to dismiss and also moved to abate the proceedings pending settlement agreements with the various CDDs, and to give them a certain amount of time, 18 to 24 months, to come into compliance with the ADA website guidance. The insurance carrier who represents a number of these districts has also worked out a global resolution, or settlement agreement that would take care of all fees and costs.

Mr. Pires had nothing further to report on this at this time, but he added that even if this case is resolved, there is always someone else who may decide to bring lawsuits, possibly against public entities. Even though the ADA regulations that are out there have never been adopted, there is a belief out there that attorneys fees and costs should be paid for by the defendant.

Mr. Pires mentioned a few lawsuits on this issue where the legal fees were very high, and added that an effort will have to be made to remediate and monitor websites.

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There is a statutory framework for the requirements, and Mr. Pires has edited it for the Board and provided it to Mr. Dorrill. This document indicated what the State of Florida has mandated must be on a website, and Mr. Pires and Mr. Dorrill will be discussing these issues with the Board, including how much should be put on the website. Minutes are not required to be on the website, and if the Board wished to keep them on the website, they will have to be remediated to make them accessible to the blind, as will anything else the District wishes to post.

Going forward Mr. Pires will have further discussions on this issue with the Board, and he suggested that Mr. Dorrill seek proposals for a contract from website compliance firms that could take immediate steps to minimize exposure, and to keep it current with any guidelines that may change going forward.

Mr. Pires hoped that in the future the Department of Justice would issue guidelines as well. There is a push on now to get the Attorney General's office to move forward with their own set of guidelines so people can understand what they need to do. He added as well that the needs of the hearing impaired must also be considered if there are audio and video components to something that is posted.

The Board will be kept advised as this issue moves forward, and agreed that proposals from knowledgeable firms will be sought. This will be placed on the September Agenda for further discussion.

FINANCIALS

The third quarter ending financials showed \$2,810,000 in cash on the balance sheet, equally split between the general operating and capital reserve funds. There was \$58,000 in payables noted. Total assets of the District were \$13,000,000, the majority being associated with infrastructure, along with \$3,000,000 in cash.

The income statement showed that \$13,000 was received in tax assessments during the month of June, which were proceeds from the tax certificate sale. Year-to-date tax assessments stood at \$2,232,000, which is 96 percent of the total revenue, taking into account the discounts taken for early payment.

Interest income year-to-date was \$26,000, and \$40,000 is being projected in interest for the year. The original forecast was for only \$5,000. This was due to changing banks, and Mr. Dorrill gave credit to the Board for that decision. Year-to-date CSA receipts were almost \$65,000 over budget, due to robust growth in the community. Staff is projecting \$1,011,000 by year's end which would exceed the original CSA budget by \$90,000.

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Mr. Lee asked about the \$1,500 under miscellaneous revenue, while the previous month it was \$7,500. Mr. Dorrill indicated that will check the general ledger, which he had with him, and advise Mr. Lee what that was about before he left the meeting.

On the expense side, legal fees year-to-date were \$47,000 under budget, due primarily to the lack of any litigation. Year-to-date insurance premiums are \$22,000 below budget, which is a reflection of locking in some low rates from the prior year for two years on the commercial and property lines.

Under wages in field management, the District is \$43,000 under budget, as it is a difficult labor market at this point. Some market rate adjustments were made to keep some of the employees from leaving. They will continue to track that, but it is expected that wages will probably come in at year's end at about 8 percent below budget.

The cost of fuel is below what it was forecast to be, as are chemicals. Repair costs on the irrigation side were minimal as well. Total operating expenses year-to-date was \$239,000 below budget on the expense side. Mr. Dorrill thanked Mr. Carter for doing excellent work and keeping his costs down, while getting the job done at Lely.

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

SUPERVISORS' REQUESTS

A. Stormwater Letter from County

Mr. Drum asked how the increase from the County for stormwater will affect the Lely CDD, as they own their own stormwater system which they have a reserve for in the event of problems. He wondered if there will be a separate levy against the Lely CDD, and Mr. Dorrill indicated that the County is trying to attach not only residential and commercial property, but institutional properties as well, such as churches and other buildings. He expects that Lely will get a stormwater utility fee based on an analysis of a standard residential unit that they have predetermined to have 3,900 square feet of impervious area.

Mr. Dorrill did agree with Mr. Drum, however, that they own, operate and replace the primary drainage facilities for the entire community, and they discharge into a State of Florida water body, Rookery Bay. There is a credit mechanism within the existing ordinance for communities such as Lely.

Mr. Pires was asked to write a letter of behalf of the Pelican Marsh CDD, and suggested that this Board may want him to do the same thing for Lely in advance of the public hearing scheduled for September 6th. While the County is happy about this new source of revenue,

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They have not mentioned how to apply for or receive credits if applicable, which will be very important.

Mr. Drum has spoken to one or two of the County Commissioners about this issue, and found that there is not a lot of sympathy for exempting Lely, as it is their perception that there are several neighborhoods that need work to bring them up to an acceptable standard because they had so much flooding, and they cannot afford to do it. So it appears that everyone will be charged, but Lely would derive limited benefit from it.

The County does make a distinction, as they are talking about the volume of water discharged into their system, which is the basis of why they are charging the District. Mr. Drum wondered if staff could get the County Commission to reverse themselves on this, as Rookery Bay is state operated, and some sort of credit should be realized.

Mr. Dorrill indicated that based on the original workshop that the County held, the County staff and their consultant will contend that Lely is entitled to a credit for their local area drainage, but in addition, South or East Naples have other drainage needs that Lely indirectly benefits from, such as the drainage facilities for US 41. While the District will not get a full credit, Mr. Dorrill felt that they were entitled to the maximum credit, whatever that is determined to be. Mr. Drum felt that it would be difficult at best to get any kind of offset, as feelings are very strong that something has to be done with some of these communities where years ago the County Commission allowed the drainage problems that they now face.

Mr. Dorrill felt that it was important that they assert their contention that communities such as theirs are entitled to a credit. Mr. Lee attended two County meetings on this topic, and indicated that they were very firm about the fact that all the sewers have a dead space below the piping that fills with debris and blocks the piping, which causes the flooding. Those areas need to be cleaned out. The County is seven to ten years behind where they should be in keeping the piping cleaned out. Additionally, they are looking at the gutters on the sides of the roadways that carry the water full of nutrients into the Gulf,

Mr. Lee also noted that the engineer at these County meetings indicated that Lely should get a credit of 20 to 25 percent, but added that all the water from Lely does go into the Gulf of Mexico. Mr. Pires noted that Lely is a stand-alone system, and a similar situation occurred with another CDD he represented. There, he advised that they handle the water alone, keep it off the County roads, and then discharge it through the Gateway system before the County system. In that case, the County backed off. In this case, the assessment against the CDD would only be against CDD owned real estate.

If the District has a lake that is owned by another entity, the District will not be charge for it,

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and the private entity that owns it will be responsible. In looking at the County's website, they indicated that for the building they are meeting in, a 25 percent mitigation credit would be given. The annual stormwater fee for the maintenance building is \$1,292.40.

However, Mr. Pires was not sure that they took into consideration the runoff from County roads that the District handled. In that case, the County is not doing the storm water pre-treatment, treatment or management of the water that comes off their roads, and from the standpoint of getting a credit, that is a big consideration. If it did not hit the County system, or a minimum portion of it before it dumped into the State system, then this would be a good conversation for Mr. Cole, Mr. Dorrill and/or the Chairman to have with the County. He added that the County should be asked how they came up with the 25 percent credit as well.

Mr. Dorrill added that part of the facility the County attributes to the CDD is the dog park, which is not owned by the District. So additionally, there is some cleanup to do on the County's part.

Mr. Pires noted that they could send a letter of objection, or appear at the September 6 meeting. A quick conversation with them is warranted about this 25 percent credit, when they should be receiving a full one, unless the 25 percent was already calculated in the District's stand-alone stormwater system credit.

To the extent possible, before the County's meeting Mr. Dorrill will have Mr. Cole and Mr. Pires meet with the project manager at the County in conjunction with Stantec, who is the lead consultant on this new revenue system, to get more information on this issue.

The County's meeting on this issue will be held on September 6 at 5:05 p.m. on the third floor of the County Government Center.

B. Master Association Letter

The Master HOA sent out a letter to everyone advising that they had hired a management company who will hire Mr. Cintron to work with the Signature Club and the complex behind Hawthorn. The other gentleman mentioned in their letter will oversee everything else.

Mr. Drum noted that they also ask for some personal information that would be up to individuals to respond to personally, but he would not be.

Mr. Lee noted that should not have been sent, and was only for HOAs. Mr. Drum felt that it did raise some important questions. Mr. Stock has indicated that there is going to be a turnover of the Master HOA in the middle of 2019, and in Mr. Drum's view that would prevent reorganization, as the board which would be elected from the homeowners would be stuck with this contract, unless the manager's contract terminates at turnover.

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No one has seen the contract, and Mr. Drum asked if Mr. Pires could obtain a copy of it to see what it says about this, as it is an important question. Additionally, he asked who would be paying for this.

Mr. Drum also personally felt that when turnover happens, the LCDD ought to assume all or most of the areas that overlap between the Master and the LCDD, which currently creates quite a bit of confusion, such as with the maintenance of the lakes. If, in fact, the manager's contract was in force, that would make it difficult to do that.

Mr. Lee agreed with Mr. Drum, and wondered why the Master had done this. Mr. Dorrill indicated that they were unaware that the Master Association was planning to do this, and added that he has encouraged his Association clients to ignore it. Mr. Campkin agreed that they needed to find out what the contract with this manager says, and Mr. Pires noted that they can ask for it, but it is not a public record and the Master has no obligation to provide that. However, members of that association could ask as they have a right to know what it says.

Mr. Pires added that if the ultimate operating entity of the South Florida Water Management permit was intended to be the CDD, then the District would be the ultimate operating entity upon the transfer. If the developer wanted to change who the ultimate operating entity is going to be, then they would do a modification to their permit.

After further discussion, it was agreed that Mr. Dorrill will contact their manager and request a copy of their contract, and he will keep the Board advised.

C. Street Lights on Wildflower

Mr. Campkin indicated that there are several street lights that were bent and not working on Wildflower, and Mr. Dorrill advised him that they will work with their electrician to get those corrected.

Additionally, there was a light pole down near the elementary school where it was hit by a car, and Mr. Pires will be provided with a copy of the accident report.

D. Sign Pole Painting

Mr. Lee reported that Mr. Carter had begun painting some of the bottoms of the sign poles and bases where needed, and Mr. Dorrill indicated that as they have extra money in the salary line item they could possibly get Mr. Carter's staff to do some extra work to get these done.

Mr. Ousley added that he was very happy with the alligator signs.

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E. Positive Community Comments

Mr. Lee advised that he has had many positive comments from the community members on the employees and how hard they work, and how nice they are. Additionally, the areas that the District has taken over are looking very good and that is appreciated as well. The president of the Lakoya HOA also sent a letter indicating how pleased they were with the work being done with landscaping and the lakes.

F. Stormwater System

Mr. Lee advised that as their system is 25 years old they are going to begin sending cameras down to check out the condition of the piping in the sewers.

G. Speed Monitoring

Mr. Lee asked if it would be possible to check speeds with a radar gun and have Mr. Bowers and one of his officers check the speed limits along Wildflower during the morning and afternoons. They would then compile those speeds over two to three months and send them to the Sheriff's Office advising them of it and how much their help was needed. Mr. Pires indicated that this could be done, and Mr. Lee advised that a good radar gun would cost about \$650. Mr. Pires advised that law enforcement be advised of this ahead of time so that there are no misunderstandings.

A MOTION was then made by Mr. Lee and seconded by Mr. Drum to authorize Mr. Carter to order a radar gun, not to exceed \$800, and was unanimously approved by the Board.

PUBLIC COMMENT

Mr. ***** asked if they could get some of the alligator signs for their community when the District gets theirs, which they would happily pay for. Mr. Dorrill will try to make arrangements with the vendor to charge this gentleman what they normally charge the District. In response to a second question as to who is responsible for the stormwater system on their private road, he was advised that they should look at the plat to see if there is a public or private drainage easement that conveys the water out.

ADJOURNMENT

The next meeting is scheduled for September 19th, when a rough draft will be presented on the rules and procedures the Board is contemplating. **On a MOTION by Mr. Ousley and a second by Mr. Campkin the meeting was adjourned at 3:00 p.m.**