

1                   **LELY COMMUNITY DEVELOPMENT DISTRICT**  
2                                   **NAPLES, FLORIDA**  
3                   **Regular Meeting of the Board of Supervisors**  
4                                   **December 15, 2021**

5   The regular meeting of the Lely Community Development District Board of Supervisors  
6   was held on Wednesday, December 15, 2021, at 1:30 p.m. at the LCDD Maintenance  
7   Building, Naples, Florida.

8   **SUPERVISORS PRESENT**

- 9   William Lee, Chairman
- 10  Anne Marie Bularzik, Vice Chair
- 11  Kenneth Drum, Supervisor (via Speakerphone)
- 12  Gerry Campkin, Supervisor
- 13  Frank LoMonte, Supervisor

14  **ALSO PRESENT**

- 15  Neil Dorrill, Manager, Dorrill Management Group
- 16  Kevin Carter, Operations Manager
- 17  Tony Pires, District Counsel
- 18  Terry Cole, District Engineer
- 19  Freddie Bowers, Director of Community Patrol
- 20  Christopher Dorrill, Field Manager

21  Mr. Dorrill asked that a moment of silence be held in memory of Mrs. Lee and asked  
22  that those present remember her as the kind and supportive woman she was.

23  **INVOCATION/PLEDGE OF ALLEGIANCE**

24  Mr. Dorrill offered an invocation, and the Pledge of Allegiance was recited in unison.

25  **PUBLIC COMMENT**

26  No public comment was received at this time.

1 **ROLL CALL/APPROVAL OF AGENDA**

2 All Board Members were physically present.

3 As it relates to the Agenda, the following items were added:

4 9A. Dead Trees on Lely Island Estates were removed

5 9B. Thank you to Mr. Carter for quick response to irrigation leak

6 9C. Resolution in opposition to zoning

7 9D. Feedback from letter sent to Mr. DeBoest

8 9E. Note of appreciation to staff for flower plantings

9 9F. Traffic control

10

11 **On a MOTION by Dr. Bularzik and a second by Mr. LoMonte, the Board**  
12 **unanimously approved the Agenda as amended.**

13 **APPROVAL OF NOVEMBER 2021 MINUTES**

14 On Page 6, Line 18, the split noted as being 4/4 should be corrected to 4/3, with four  
15 members of the HOA and three from the CDD.

16 Additionally, on Page 6, Line 27, the word “anonymity” should be removed and replaced  
17 with “confidentiality.”

18 On Page 9, Line 14, the name “Vernon \*\*\*\*” was replaced with “a resident.”

19 **On a MOTION by Dr. Bularzik and a second by Mr. Drum, the minutes were then**  
20 **unanimously approved as amended.**

21 **MANAGER’S REPORT**

22 **A. Community Patrol**

23 There were 78 incidents cited on the November report, which included a large alligator  
24 that made the newspaper. There were eleven nonresident trespassing incidents, and an  
25 additional eight loitering or vandalism reports. There was a normal amount of gate or  
26 safety incidents, two of which involved automobile fires in the garages. Mr. Bowers was  
27 noted for his quick action in getting the handicapped residents in one of the homes to  
28 safety.

29 There were a couple of suspicious incidents, one involving a boat that was launched  
30 into the big lake. There were several vehicular accidents, none of which were serious.

31 There were a total of 59 citations or written warnings.

1 **B. Irrigation Controls Update**

2 Mr. Dorrill reported that there has been good progress on the assembly of the new  
3 irrigation controls, and payment request number one has been processed. Mr. Carter  
4 advised that as a new transformer has to be installed, FPL had to be scheduled to come  
5 out on January 10<sup>th</sup> to do that work, and after that is completed the installation and  
6 training period will occur. If there are no problems, the installation should be completed  
7 by January 13<sup>th</sup>. There will be no irrigation water for the three days that this work is  
8 being done.

9 The concrete prep work has been completed where the new controls will sit, and while  
10 some of the equipment is here, much of it is being assembled off site. Once this time  
11 frame is firmed up an email will be sent to the association presidents advising them of  
12 the timing.

13 In response to Mr. Lee's question, Mr. Carter advised that the footprint of the new  
14 irrigation controls will be much smaller than that of the old pump system.

15 **C. South Florida Water Management District Permit Conveyance**

16 While this issue is still ongoing, Mr. Dorrill wanted to advise the Board of some  
17 preliminary findings. He reminded the Board of the Water Management District's efforts  
18 over the past several years to clean up the old construction files that had never been  
19 properly certified and transferred to a maintenance and operating status. The drainage  
20 systems permit is being held by the CDD for maintenance and operation.

21 A notice of violation was recently received citing one of the special conditions in one of  
22 the permits as it related to the wetlands and conservation area adjacent to the Ole  
23 Community. This area is full of exotics and was never part of the take down schedule  
24 when Stock Development purchased the assets from Lely. The deed is still held by one  
25 of the Lely affiliates as Stock would not take it.

26 The Water Management District is under the impression that the conveyance was made  
27 to the CDD, and they were advised that while the CDD is responsible for the drainage  
28 systems, they have never owned or been responsible for any of the preserve areas in  
29 the community. They are owned by either a Lely affiliate or the Master HOA.

30 A response is being prepared, and Mr. Pires asked if a formal notice of violations was  
31 received, and was advised that it was not, but simply an email citing the provision. Mr.  
32 Pires indicated that he had been working on the issue over the past week and explained

1 that initially a conceptual permit was issued for the whole Lely Community, and then  
2 when construction began, there were several applications under the main permit  
3 number, each of which became a permit. There are a number of application numbers,  
4 and the year an application is made triggers the number, and these may modify or  
5 affirm the conceptual permit.

6 The section that was cited in the notice of violation was one that is under general  
7 conditions and special conditions. There was a mis-cite when it was indicated in the  
8 notice that the Lely CDD was the operating entity responsible for the maintenance of the  
9 wetlands and conservation areas in the application permit. The CDD did accept  
10 responsibility for the surface water management on that permit, as was noted under the  
11 general conditions. However, the permit did have special conditions, one of which was  
12 that the Lely Resort Master Association would be responsible for maintenance of the  
13 conservation areas and preserves in perpetuity. There is also a plat at the County  
14 indicating the Master Association's responsibility for these areas.

15 Mr. Cole has been trying to contact the woman who sent the notice of violation to  
16 explain the situation to her, and he sent an email to her the previous day elaborating on  
17 the mistake she had made. He noted that what Mr. Pires has outlined was correct and  
18 in his email to the woman at the South Florida Water Management District he reiterated  
19 that the permits themselves required that the Lely Master HOA maintain these  
20 conservation areas in perpetuity. It also states in this special condition that this was  
21 noted on the plat. Further research showed that all 14 of the applications that were  
22 transferred in 2018 to the CDD for maintenance all consistently showed that the CDD  
23 was responsible for the surface water management system, and at least three of them  
24 showed that the conservation areas were the responsibility of the Master HOA. Mr.  
25 Pires then read from a permit issued in 1993 which once again noted that under special  
26 conditions that the preservation and conservation areas will be the perpetual  
27 responsibility of the Lely Resort Master Property Owners Association.

28 Mr. Drum asked if there was an event that started the issue of responsibility for these  
29 preservation areas, and Mr. Pires noted that his supposition was that the engineer  
30 retained by the Master Association has been contacting the Water Management  
31 District's staff asking about the status of these permits, which brought this to the  
32 attention of the Water Management District. Mr. Dorrill indicated that this was his  
33 impression as well, that when the Master HOA was turned over to the residents, for  
34 some reason the new Board began looking at problems where none existed.

1 Mr. Cole noted that they have been having discussions about the preserve areas for  
2 over ten years, and he has met with representatives from Coastal Engineering who  
3 represented Mr. Boff and spoke with Stock Development and others. Earth Tech is the  
4 monitoring company that has to provide a yearly report on the wetlands, and their report  
5 showed the invasion of exotics. Of the 18 or so preserves in Lely there are one or two in  
6 particular, with invasive species that staff engineers have known about for years and  
7 have identified the responsibility as not belonging to the CDD. Mr. Pires added that Mr.  
8 Carter received an email from Earth Tech the previous Monday indicating that they  
9 understood from the SFWMD that all the preserves are the responsibility of the CDD to  
10 maintain. Mr. Cole is still trying to have discussions with the Water Management District  
11 to correct this misinformation, and the process is ongoing.

12 Mr. Dorrill noted that the CDD is taking their response to the Water Management District  
13 seriously and reiterated that it has never been the responsible party for the preserves.  
14 This permit history is convoluted enough that it seems to have been misconstrued. If  
15 necessary, Mr. Pires may hire a co-counsel who specializes in these types of issues, so  
16 this does not turn into an ongoing, larger problem than it already is. Mr. Dorrill will keep  
17 the Board advised.

#### 18 **D. Triangle Blvd. Landscape Plan**

19 Mr. Dorrill advised that this related to the new roundabout that has been constructed on  
20 Triangle Blvd. which requires some landscaping on the CDD's part. The landscape  
21 architect who does the CDD's work has come up with a simple plan which Mr. Carter  
22 finds appropriate. The final surfacing was scheduled for the middle of April but may be  
23 done sooner as the contractor is ahead of schedule. Mr. Carter will keep the Board  
24 advised.

25 Mr. Lee spoke to the landscapers wished to go forward as soon as possible, as the  
26 DOT will finish it was pasture sod which will not be consistent with the plantings  
27 throughout the area.

1 **E. Lake Interconnect Pipe**

2 As a result of a routine inspection of the conveyance pipes at Sunstone, some  
3 vacuuming needs to be done in order to alleviate some drainage issues that have  
4 occurred. The cost has been reviewed by the engineer at \$13,060 from Landshore  
5 Enterprises, LLC to get the conveyance line cleaned. This pipe moves water from one  
6 lake to another, and the Mr. Dorrill felt it was important to get done before the dry  
7 season. **On a MOTION by Dr. Bularzik and a second by Mr. Drum, the Board**  
8 **unanimously approved the contract with Land Shore Enterprises to clean out the**  
9 **conveyance pipe for a cost of \$13,060.**

10 **F. New Statutory Requirements for Stormwater and Wastewater**

11 The Legislature recently adopted a requirement for special purpose governments to  
12 prepare a 20-year needs analysis and inventory of their stormwater management  
13 system and facilities. This project was not specifically budgeted as they were not aware  
14 that this statute would be signed into law when the budget was being prepare.

15 The proposal to do the inventory and needs analysis is \$17,500 on a time and material  
16 basis. Mr. Dorrill asked that a budget amendment be included in the motion to be able  
17 to remove the money from the contingency into the engineering line item. Mr. Dorrill  
18 expects that this will only be required once, but there may be a requirement to redo this  
19 in five years. Mr. Cole learned recently in a seminar that part of the reason for this  
20 requirement was to have these cities and districts, et cetera, plan ahead for stormwater  
21 improvements. The Lely CDD already has this plan in place, and essentially will be  
22 reporting what maintenance money is spent on a yearly basis.

23 **On a MOTION by Dr. Bularzik and a second by Mr. Drum, the Board unanimously**  
24 **approved the proposal for \$17,500 for the inventory and needs analysis work and**  
25 **authorized a Budget Amendment to cover these costs.**

26 Dr. Bularzik asked that a line item be added during the next budget preparation for this  
27 five-year inventory and needs analysis work.

28 **ATTORNEY'S REPORT**

29 **A. Master HOA/CDD Issues**

30 Mr. Pires briefly summarized the email he sent to Mr. DeBoest the previous Friday,  
31 advising that the settlement agreement had nothing to do with the covenants, and the  
32 common areas noted in the agreement related to the right-of-way segments as noted in  
33 Exhibit A. Mr. Pires added that they dispute that they are responsible for all the lakes,

1 and that they look forward to receiving a detailed engineering study from the firm that  
2 was retained by Mr. DeBoest's client, which Mr. DeBoest advised his client does not  
3 have.

4 Mr. Pires also advised in this communication that the Board has authorized himself, Mr.  
5 Dorrill, and the Chairman to meet informally with Mr. DeBoest and representatives of his  
6 client to discuss the issues. He added that he did not feel that mediation was  
7 appropriate, and asked Mr. DeBoest for suggestions on dates and times to set up this  
8 meeting. The Board will be provided with copies of Mr. Pires' email, and he will advise  
9 them when a reply is received. The Board members briefly discussed options in dealing  
10 with these issues with the Master Association, and Mr. Pires will keep them advised as  
11 this moves forward.

## 12 **FINANCIALS**

13 In response to Mr. Lee's question, Mr. Dorrill noted that some of the year end money  
14 Mr. Lee referred to was partially the reserve for cash flow and contingency. He did not  
15 have the number for the fund balance at the end of the year but will get that information  
16 for Mr. Lee.

17 In the first month of operations in the new year, there was \$4,300,000 in cash, with  
18 \$2,700,000 of that amount sitting in the capital reserve, which Mr. Dorrill felt was one of  
19 the most fiscally prudent things this Board ever did. There were \$300,000 in payables at  
20 the end of October, primarily due to the purchase of new Kubota vehicles and a truck.

21 The income showed over \$15,000 came in during October, probably due to people  
22 required by their insurance to escrow taxes and insurance, along with quarterly  
23 payments that some residents make. \$900 in interest was received from the cash on  
24 hand. The fourth quarter payment for the CSA was received, and Mr. Dorrill expects to  
25 receive a check from the tax collector for unused fees in the near future. Overall, the  
26 District stood at about \$7,000 under budget on the operating side.

27 Dr. Bularzik asked about personnel wages under field management, noting that they  
28 appeared to be over budget by almost \$14,000. Mr. Dorrill noted that the budget was  
29 \$47,000 and they only spent \$33,000, so they are under budget.

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

1 **SUPERVISORS' REQUESTS**

2 Mr. Dorrill noted that items A and B were informational regarding the removal of dead  
3 trees, and appreciation for Mr. Carter's quick response to an irrigation line leak.

4 **B. Resolution in Opposition to Residential Development**

5 Dr. Bularzik noted that a meeting was held the previous evening regarding this C3  
6 zoned piece of land currently owned by Stock, but \*\*\* Stantec Consulting and Davis  
7 Development are planning on putting in 184 units if it is approved, with 370 parking  
8 spaces. There will be two buildings, four stories high, with one-, two-, and three-  
9 bedroom units. The area will not be gated. There will only be one access and egress to  
10 the property, from Celeste, and it will border CR 951, Grand Lely Blvd., and Celeste.  
11 Apparently, the County will not consider access and egress off CR 951 due to traffic  
12 issues. This plan will mean there will be significantly more traffic driving through Lely's  
13 residential areas to get back to US 41 without dealing with lights. There are already  
14 significant traffic and speeding problems in Lely, and Dr. Bularzik felt that there will be  
15 more safety concerns created by this development.

16 A traffic study will need to be done, and Mr. Pires noted that the applicants asked for a  
17 waiver of the traffic impact statement. He provided information on the request made to  
18 Mike Sawyer's note to his staff in this regard. Mr. Pires also explained the arguments  
19 the developer was making for this waiver, and what the County's requirements are.

20 The Board members discussed the development and the problems that will result from it  
21 in the Lely Community. Dr. Bularzik had an opposition letter available for the Lely CDD  
22 to send to the County if they wished to do so. There are many steps that must be taken  
23 by the developer before this will go before the Commission for approval, and Mr. Pires  
24 suggested that something be brought to the next Board meeting for the Board's  
25 approval, and Mr. Pires suggested that something be brought to the next Board meeting  
26 for the Board's approval regarding their opposition to this project, and he will get the  
27 consensus of the Board and work with Mr. Cole, Mr. Dorrill, and Mr. Carter and Dr.  
28 Bularzik to bring these thoughts to the next meeting.

29 Mr. Dorrill added that at some point, if this development is approved, the Board would  
30 have to reserve its rights to increase the number of units on that parcel if it goes forward  
31 in a residential configuration.

32 **D. Mr. DeBoest's Response**

33 This item was addressed under the Attorney's Report.



1 **ADJOURNMENT**

- 2 The next meeting will be on January 19<sup>th</sup>. **On a MOTION by Dr. Bularzik and a second**  
3 **Mr. Campkin, the meeting was adjourned at 2:52 p.m.**