

**LELY COMMUNITY DEVELOPMENT DISTRICT  
NAPLES, FLORIDA  
REGULAR MEETING OF THE BOARD OF SUPERVISORS  
APRIL 20, 2016**

The regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, April 20, 2016 at 1:40 p.m. at the LCDD Maintenance Building.

**SUPERVISORS PRESENT:** Gerry Campkin, Chairman  
William Lee, Vice Chairman  
Harold Ousley, Treasurer (Via Speakerphone)  
Kenneth Drum, Secretary  
Robert Fisher, Legal Aide

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

**INVOCATION AND PLEDGE OF ALLEGIANCE**

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

**A. Public Comment**

There was no public comment received at this time.

**ROLL CALL/APPROVAL OF AGENDA**

All members were in attendance, with Mr. Ousley participating via speakerphone. **On a MOTION by Mr. Lee and a second by Mr. Drum, the Board unanimously approved Mr. Ousley's participation via speakerphone due to exceptional circumstances.** Mr. Drum advised that he would be appearing via speakerphone the following month.

Items 5D, Irrigation Water Purchase Agreement; 5E, Update on Water Use Permit Renewal; 7B, Newsletter; 7C, Luncheon for Mr. Ellis; 7D, Reserves; 7E, Sheriff's Patrol and 7F, Trespass Agreement, were added to the Agenda. **With those additions, the Agenda was unanimously approved on a MOTION by Mr. Lee and a second by Mr. Drum.**

**APPROVAL OF MARCH 2016 MEETING MINUTES**

As it relates to the Workshop minutes, Mr. Fisher was in attendance at that meeting.

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As it relates to the regular meeting minutes, on Page 4 under the Approval of the February minutes, the numbers should read 308 and 307.

On Page 6, in the eighth line from the top, Mr. Gelder's name was spelled incorrectly. Additionally on Page 6 under HOA Responsibilities, the sentence beginning "Mr. Fisher was unable to attend..." should be stricken from the minutes.

On Page 8, under K-Mart Bear, the person to call is Mr. Ousley rather than Mr. Fisher, and in the second sentence the last phrase should read, "and the bear will be taken to a preserve".

**On a MOTION by Mr. Drum and a second by Mr. Lee, the workshop minutes as amended were unanimously approved by the Board.**

**On a MOTION by Mr. Drum and a second by Mr. Lee, the regular meeting minutes as amended were unanimously approved by the Board.**

**MANAGER'S REPORT**

**A. Community Patrol Update**

During the first month of the supplemental patrol program, which is going on in lieu of an in-house community patrol program to replace G4, quite a bit of activity was generated. A report was prepared by Mr. Dorrill's office, and in the future names and addresses will be left out. An incident occurred where an elderly gentleman was confused and was given assistance immediately and in a compassionate manner. Mr. Campkin noted this, and asked the Board if they should consider having these extra patrols on a permanent basis rather than bringing in someone with no legal authority. Mr. Drum agreed, but added that they are very expensive. However, they demonstrate accountability, and he felt having them present was justified. He noted, too, that they did other things, such as check the pump house.

Mr. Dorrill advised that the most recent direction from the Board was to take the amount of money previously paid to G4 to develop an in-house program with a security supervisor who would also patrol. He has contacted the County's retired director of Security, and this gentleman is working with Mr. Carter to develop a protocol and a policy and procedures manual which is important for liability reasons, among other things.

Additionally, Mr. Dorrill is beginning to work on Lely's tentative budget for next year, and over the course of the next few months if the Sheriff's patrol becomes popular, the Board may want to make that part of the budget deliberations, and do a budget amendment to get it paid through the end of the year. The Board will have the option to do both in-house security supplemented by the Sheriff's Department, or one or the other at the time the budget for the coming year is discussed.

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Mr. Lee also suggested that the patrols may want to be on hand the first thing in the morning when the students and teachers are heading to school as well as golfers coming in, as this is a time of heavy traffic. In the afternoon when school lets out is another heavy traffic time. Mr. Dorrill indicated that they had met with the sergeant who coordinates the off duty sheriff's deputies, and staggered times were specifically requested with an emphasis on high school related speeding along Wildflower, and also to the club locations. With the concerns on Lely Island Circle, they will be monitoring that area as well.

Mr. Lee felt that the Board should use both options for security, and Mr. Dorrill assured him that this would be looked at when he and Mr. Carter work on the 2017 budget. Mr. Drum agreed that the best option would be to use both security options.

Mr. Campkin noted that six out of the eight people who were stopped were Lely residents, and Mr. Dorrill added that there was a criminal stop as well.

**B. Ole Drainage**

There are some general concerns about the way the condominium documents and the plats for this condominium were recorded, as the drainage reservations are in favor of the Master HOA. The Master HOA does not have a permit to do anything, and the permit is in the name of the Lely Community Development District which is responsible for the drainage facilities and easements.

Mr. Carter met with some representatives of Ole recently to look at some of the landscaping located in the "no man's land" parcels that are on the south and north ends of the security wall. There were some issues in the past as to who owns that wall.

Mr. Weaver, the vice president of the Ole HOA, thanked the Board for allowing staff and the Board's counsel and engineer to meet with them at Ole, which was very informative for them. Their issue is that the surface water management system is not being maintained properly, and when a heavy rainfall occurs, as was the case in January, water accumulates in the streets and drains very slowly. If a hurricane were to occur, some of the first floor residences would flood, and some of them are not insured for flood as they are not in areas that require it.

Stock was previously asked for mitigation work to be done, and while some work was done, very little of it was within the stormwater drainage system in the community. Part of that work was done as part of the turnover to the community, but now that turnover has occurred, the Master HOA denies any responsibility whatsoever.

Ole's feelings are that they have never budgeted for this, they have never done it through anyone else but the HOA, and lastly they don't feel that they have a responsibility for it.

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Mr. Weaver expressed his concern that the drains needed to be fixed before the rainy season started, and as it stands, Ole is still working with Stock and the Master HOA in an effort to get this resolved. He thanked the Board for their cooperation and for any help they could possibly give them.

Mr. Bryant asked what Becker and Poliakoff were telling the Ole HOA about what they should do, and Mr. Weaver indicated that their position after reviewing the permit and other relevant documentation was that the Master HOA was responsible for the maintenance of the surface water management system, including catch basins and infrastructure to the drainage swale along the preserve as well as the swale itself.

Mr. Dorrill had a survey done showing the boundaries of the Chase Preserve and drainage swale, and the remediation goes up to those. However, now there are a number of areas where trees have fallen into the canal, and although Mr. Carter has moved some of them as a courtesy, a dam has been built up and the water is not flowing through.

Mr. Dorrill advised the Board that this is one of the areas that Mr. Bryant has on his list of issues to be included in a global settlement. The preserve itself is owned by one of the original Lely Development affiliates and was never conveyed to the Master. He explained as well that they do distinguish between primary drainage fixtures and secondary, and there may be some internal issues on the private streets in Ole that need to be resolved as well. He assured Mr. Weaver that they were working to do what they could on this issue.

Mr. Drum noted that this was the second issue the Board had where the Master Association was deemed to be responsible, but would not do anything about the problem. If something is done, they will then charge everyone for it. Mr. Drum asked if there was a strategy in place aside from the contemplated global settlement with the Master HOA. Mr. Bryant advised that Stock probably will not do anything unless required to by law.

Mr. Bryant briefly spoke about the Lakoya Lake and the steel fencing issue, when Mr. Ellis and his maintenance crews could not get into the lake to do work after Lakoya installed the fence. The CDD had been maintaining it to keep the area looking as it should, but the documents read that the Master HOA is responsible for this work. Once the fence went up and Mr. Ellis could not get to the lake, the Lakoya people began to complain. Mr. Bryant suggested that counsel for Lakoya contact Mr. Gelder at Stock to discuss the issue. As Mr. Dorrill indicated, if these issues could all be settled at the time the CSA issue is addressed, it would be best for all concerned.

Mr. Bryant added that in the case of Lely, which was in existence before legislation regarding the turnover process was passed, the Master HOA turnover will not occur until Stock is ready to

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make it happen.

Mr. Campkin noted that the residents of Ole have an immediate problem as the rainy season is starting soon, and they are anticipating flooding. Mr. Dorrill suggested that twice in the past they have had Mr. Ellis' staff clean up the outfall feature behind Ole to make sure the catch basins were not clogged with debris, and so the District is doing what it can at this point to make sure the system there functions as designed. Again, Mr. Dorrill noted that there may be an issue internally with some of the street drainage as they have not been looked at.

Transferring the roadways to the County depends on the County accepting them after it has been determined that they are in good shape and meet their requirements.

Mr. Campkin noted that ultimately everyone will share in the costs on this issue, and something should be done before things get worse than they are. Mr. Bryant advised that there are legal issues surrounding spending CDD money correctly, and paying to correct Ole's problems, for instance, could bring up even more problems and issues.

Mr. Dorrill noted that Stock is under pressure from the enforcement arm of the South Florida Water Management District to convey their construction permits into an operating and maintenance status that requires the District's participation. Mr. Bryant is working with the engineer on these things, and perhaps this will assist the process in the upcoming mediation. Mr. Dorrill finally noted that there have been subdivision regulations put in place that did not exist when some of the older subdivisions were built. Now, they are required to have neighborhood HOAs to maintain the residential streets as the County does not want them.

**C. Notice of Qualifying Period for Candidates for Lely CDD**

The law requires that Mr. Dorrill advise the Board of the qualifying period for candidates for the fall elections. A copy of that notice must be run in the newspaper was provided to the Board members. The seats that will be open this year are Seats 1, 3 and 5 and will be on the ballot this fall.

**On a MOTION by Kenneth Drum and a second by Harold Ousley, Mr. Dorrill was approved to place the notice in the newspaper regarding this election on a unanimous vote of the Board.**

**D. Irrigation Purchase Agreement**

Exhibits regarding this agreement were provided to the Board members, and Mr. Dorrill pointed out to them that they are the County's largest irrigation purchaser in the entire urban area. Water is a precious commodity, and the County has created what they call pressurized retail customers, who pay metered rates for the purchase of this water. The new agreement

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will no longer require the CDD to purchase on a put or pay basis. If the County doesn't have the ability to deliver the minimum threshold on a daily basis, the District is not obligated to pay the amount they would if all the water was received.

Additionally, Mr. Dorrill advised them that two years previously the Board of County Commissioners approved a three year automatic 20 percent rate increase in irrigation quality water. As a result, the District will be over budget this year as this is the third year of a multiyear rate increase.

Mr. Dorrill and Mr. Bryant hope to have the final agreement as part of the agenda the following month.

**E. Water Use Permit**

The District has a series of wells that move water back and forth in between lakes, and they are tied into the water use permit with the South Florida Water Management District. A proposal has been received from a consultant on this issue and Mr. Bryant made some changes to it for legal sufficiency, and he asked the Board to authorize him to sign it once it has been approved by counsel.

Mr. Bryant has been communicating with a Mr. Lawrence, and has advised him that he wants to add the name of the district to the permit and his fees for time and materials. Mr. Lawrence will be critical in getting the permit renewed. He advised Mr. Bryant that 20 year permits are very hard to get, because you have to show a minimum of five to seven years of non-detrimental pumping of water from the aquifer, but Mr. Lawrence will be asked to explore that possibility, as it would be very beneficial to the District.

Mr. Lee asked if this water was all pumped out of the ground or if it was also related to the water that goes through the system to Henderson Creek and eventually ends up in the Gulf of Mexico. Mr. Bryant advised that this permit is an overview of all the District's water use. This is why there are monitoring wells in the preserve, to make sure that there are no adverse impacts on the preserve from the pumping. Data goes out on a regular basis to the Water District, reporting that there have been no negative impacts on the ground water or the aquifer.

In response to Mr. Drum's question about Mr. Gelder's interest in the permit, Mr. Bryant indicated that he is the vice-president of land development, and is involved in all those related issues. Mr. Drum stated that as the District owns the transmission systems for non-potable water, if someone were granted relief and were found to be entitled to some of that water, they would then have to provide their own transmission system for it. Mr. Drum then asked

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If the newly named Stock Plaza was hooked onto the District's transmission system, and was advised that this was another one of the issues that would be discussed at mediation.

**On a MOTION by Mr. Lee and a second by Mr. Ousley, the Board unanimously approved Mr. Dorrill's execution of the agreement subject to Mr. Bryant's review.**

**ATTORNEY'S REPORT**

**A. Mediation Alternate**

In the event an alternate Board member was required to attend the mediation, Mr. Bryant asked the Board to approve one of their number for this. **Mr. Ousley then made the MOTION that was seconded by Mr. Fisher that Mr. Lee would be an appropriate alternate as he has the credentials and is well qualified. The Board unanimously agreed.**

**B. Water Use at Lakoya**

The information has still not been put together as required to show the water use of residents versus the landscape water use at Lakoya. Mr. Bryant will be speaking to Mr. \*\*\*Barnes about this, in an effort to determine how much of this water is being used by Stock for landscaping.

**FINANCIALS**

As the District approaches mid-year, there is \$2,800,000 in cash, \$1,000,000 of that amount sitting in the restricted capital reserve. The first half transfer into the reserve will be made shortly in the amount of \$100,000 out of the operating account. At the end of February there was \$240,000 in payables.

The income statement showed \$41,000 having been received, and a large amount of non-ad valorem assessments from the tax collector at the end of March. About 96 percent of total revenues for the year have been received. Total income to date including the CSA fees is \$2,200,000.

Aside from legal and litigation costs associated with the CSA lawsuit and the overage on the year to date purchases, and with some of the other charges being seasonally adjusted, total operating expenses at the end of five months were about \$15,000 over budget.

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

Mr. Bryant asked the Board at this point if they would consider reserves for lake maintenance for the erosion issue, and Mr. Lee pointed out that Mr. Phillips in his letter to the Board noted that they should have more money in reserves to address future needs as well. Mr. Bryant

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agreed that the Board needed to discuss this during budget deliberations, as the erosion issues will mean a significant expenditure. A large map was shown to the Board, prepared by Mr. Carter, which showed the lakes in the District and what entity had the maintenance responsibility for them.

Mr. Dorrill reiterated that what they are trying to resolve is that in concert with the permit responsibility that they end up with a property interest, and if the Master has certain drainage easements now, the Board needs to seek having them assigned to the CDD.

Mr. Drum asked for some clarification as it relates to maintenance, and how far that extends, and whether some responsibility had to be with the Master HOA and/or the individual property owner. Mr. Bryant indicated that the plat should tell you what was dedicated to whom, and in the case of the woman with erosion problems very near her lanai, it was dedicated to the Master Association.

The Board members discussed the responsibility of lake maintenance as it relates to lake bank erosion with Mr. Bryant, noting that the yellow colored lakes on the schematic are the responsibility of the CDD. Mr. Dorrill indicated that there has never been any money appropriated to take care of lake bank repairs.

**SUPERVISORS' REQUESTS**

**A. Pension Fund**

Mr. Dorrill indicated that he may have to go to Tallahassee and meet with someone in the Secretary of State's office as they deal with unclaimed personal property. Those funds are invested in a Fidelity defined benefit program, tied to what may be a fraudulent Social Security Number for an employee from 15 years ago.

A decision will have to be made to authorize Fidelity to surrender those funds to the State of Florida or the CDD, and so far Mr. Dorrill has not been able to find anyone willing to do that.

**B. Newsletter**

Mr. Lee complimented Dee on the newsletter, and the photographer, Margaret, was also noted for the good work she did.

In response to Mr. Campkin's question, Mr. Dorrill indicated that the Lely Fleur-de-lis is part of the entry feature at the Classics.

**C. Luncheon for Mr. Ellis**

Mr. Dorrill reported that the luncheon held for Mr. Ellis was very much appreciated by



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everyone, and Mr. Lee suggested that a luncheon should be held at the end of the year as well. Mr. Carter does have some plans for a barbeque for the men. Mr. Dorrill added that from a morale perspective, it is money well spent.

D. Trespass Agreement

Mr. Drum noted that on the golf course at Flamingo there are posted signs indicating that the cart path is for golfers only. There have been incidents of trespassing on the golf course, with someone practicing with a bucket of balls and causing divots in the green; others have used the path for walking and bike riding. This leads to the question of security, as this path runs behind the homes of several residents. Mr. Drum asked if there was a way to get the golf course to enforce their signs indicating that they are for golfers only, and apparently it is difficult to talk to the golf course management about it.

Mr. Bryant indicated that he knows the manager of that golf course, and that he would be glad to speak with him about it and determine if they have a trespass agreement with the Sheriff's Department, as they will have to enforce it.

**PUBLIC COMMENT**

Bill \*\*\* asked about what time the parking lot closed at the horses, as he has seen it partially open late, and on occasion closed early. Mr. Drum indicated that the sign says it closes at 8:00 p.m. but as the days get longer with the summer, it will close at dusk. Mr. Dorrill indicated that the grounds crew opens and closes it now that Wackenhut has been terminated, so it has been closing early, but this is a temporary situation.

This gentleman noted that the water in the fountain at the horses has been off for a while, and was advised that the water is shut off routinely when the pool is being cleaned or if the horses themselves are receiving maintenance. Otherwise it is on a timer, which will be checked.

Tom Moran asked about the dirt mound on the corner and whether it was going to be removed, and was advised that the Master Association indicated that within 90 days of March 30 that dirt would be removed. This is Stock's responsibility, and the District has filed a complaint which is on record in the event of an accident related to the dirt mound.

**ADJOURNMENT**

The next meeting will be held on the 18<sup>th</sup> of May, with a workshop at 1:00 p.m. with the Supervisor of Elections. **The meeting was then adjourned at 2:50 p.m. on a MOTION by Mr. Fisher and a second by Mr. Drum.**

