

**LELY COMMUNITY DEVELOPMENT DISTRICT  
NAPLES, FLORIDA  
REGULAR MEETING OF THE BOARD OF SUPERVISORS  
FEBRUARY 17, 2016**

The regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, February 17, 2016 at 1:30 p.m. at the LCDD Maintenance Building.

**SUPERVISORS PRESENT:**

Gerry Campkin, Chairman  
William Lee, Vice Chairman  
Harold Ousley, Treasurer  
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  
Jerry Ellis, Operations Manager  
Commissioner Donna Fiala

**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.

**APPEARANCE BY COMMISSIONER FIALA**

The Commissioner spoke first to the many good things taking place in the Community, adding that as redevelopment takes place, it is important that it is done well, and for that reason she is running for another term. The mini Gateway Triangle is a case in point with 14 pieces of property, and the County CRA owns six of those pieces and has put them up for sale. Mrs. Fiala felt that it was important that this area have a catalyst for positive growth.

Three bids were received, one for a gas station that was bid too low, the second for housing which was what they called upscale housing which could easily become affordable housing, and the third was for a two story office building with a ten story hotel with shops on the bottom, and an 18 story building in the back; however, the Airport Authority has indicated that 12 stories is the limit on height in this area. This bid is the one that the County is working with.

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Mrs. Fiala would like to see this happen, but does not want to see the project annexed to the City before work is even begun. She would prefer that it remain in East Naples, and be a statement there.

Mrs. Fiala indicated that she is not worried about over development, as this area backs up to the Fackahatchee Forest and the Picayune Strand, by Rookery Bay and Collier-Seminole State Park. These are a natural barrier to overdevelopment as none of them can be built on. There are 2,025 square miles in the County, and 19 percent of that is where the residents live and work, the remaining 81 percent is in preservation forever. The County is lucky in that regard, as well as the fact that there are no high rises.

Mrs. Fiala also noted that Fresh Market was a great boon to the East Naples area, and it has done remarkably well. Physicians Regional will be building a walk in clinic facility in the area as well.

As it relates to the rental ordinance, Mrs. Fiala indicated that it has been in place for a very long time, but has only recently come to light, mainly because of the large number of Marco Island short term rentals. Mrs. Fiala received quite a bit of mail from Lely, and advised those present that they aren't going to stop anyone from renting their places unless they become a disturbance to the neighbors, and that has not occurred in Lely. In speaking with the County Attorney, he said that they do not want to shut anyone down, as long as there is not an issue where people are complaining.

Mr. Drum asked why a developer of affordable housing is given density bonuses, because it is not growth paying for growth and will make an already overcrowded roadway situation even worse. He wondered if there was a chance that these density bonuses could be eliminated, and Mrs. Fiala noted that the main users of those units would be people who have just graduated from college and/or have first jobs in the service industry. The County does not incentivize this level of housing, but only the low and very low income housing. An affordable housing workshop will be held on the first of March at 9:00 a.m. at the Government Center, and she indicated that they are welcome to attend.

Of all the affordable housing in Collier County, 68 percent of it shelters people in Naples. Immokalee has 30 percent, and Golden Gate City has 2 percent, and all the people in that housing also need food stamps, health care, and schooling. HUD is the entity that determines what is declared as affordable housing, and there are many, many low income units in Naples that are not included by HUD, with no good explanation. Many of these residents would receive an incentive of \$50,000 per person to move into a low income house. With no other questions, Commissioner Fiala was thanked for her attendance at the meeting.

**APPROVAL OF AGENDA**

With the addition of items 4D, Security; 7A, Newsletter Article; 7B, HOA Master Meeting; 7C, Society Garlic; 7D, Clarification on Fishing in Lely, and 7E, Clarification on what Mr. Carter’s job will be when he takes over for Mr. Ellis, **the Agenda was unanimously approved on a MOTION by Mr. Drum and a second by Mr. Lee.**

**APPROVAL OF MINUTES OF JANUARY WORKSHOP AND REGULAR MEETING**

As it relates to the workshop, On Page 2, Line 2, the word “at” should be “and”.

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

**The regular meeting minutes were unanimously approved on a MOTION by Mr. Drum and a second by Mr. Fisher,**

**MANAGER’S REPORT**

A. Arlington/Aster Irrigation Agreement

At Mr. Lee’s request, Mr. Dorrill gave a brief overview of the separate CSA billings that are in place with the York rental apartment project now known as Aster, and the Arlington project, and provided the Board with the relevant documents for discussion.

The Aster project has 307 units, and the Arlington has 298 units, and they are only paying for those services for which they receive a direct benefit; specifically irrigation, drainage and water management. The medians at those communities are not maintained by the District, nor are the streetlights within those areas, as noted in the amendments that were created for the agreements.

Mr. Lee asked if the agreement changed annually, and was advised that it is tied to a formula based on the unit equivalent of the cost centers noted above, drainage, irrigation and the administrative fee that’s in place. That does not change annually, and payment is usually made quarterly, and is being billed through the Master invoicing agreement that is in place. At Mr. Lee’s request, Mr. Dorrill will check to see that if these payments are being made to the Master Association. Mr. Dorrill suggested that these fees should be separated on the financials as they are not directly tied to the CSA, and will be noted as miscellaneous revenue going forward. Mr. Lee agreed that this would be appropriate.

Mr. Drum heard some discussion about the fact that Arlington was not paying any CSA fees even though they had residents, and Mr. Dorrill indicated that they did not get billed until

they had received their CO. He was not sure whether they had received that money from the first quarter or not, but they were billed. He will follow up on that for the Board.

**B. Street Light Budget Amendment**

This item was a follow up to last month's meeting where the second and third phase of the street light renovation project was authorized, subject to the same unit cost being applied to the second and third phase. The cost was the same, and Mr. Dorrill provided to the Board a copy of the use and source Budget Amendment to fund this street light project which is scheduled to begin in approximately 60 days.

**The Budget Amendment consistent, with the Board's previous direction, was then unanimously approved on a MOTION by Mr. Lee and a second by Mr. Ousley.**

**C. Interim Roving Patrol Program**

Notice has been given to Wackenhut, or G4, effective March 1, and in the interim, in lieu of the roving patrols, arrangements are being made to use the Collier County Sheriff's Deputies on an off duty, hourly rate that can be canceled at any time. The application from the Sheriff's Department for this contract has been received, and the deputies will be assigned in four hour shifts on staggered schedules.

Additionally, the former County Security Director, Skip Camp, has indicated that he would be willing to help prepare the necessary training and duty manual, or post orders, and Mr. Dorrill will also ask him for assistance in interviewing potential candidates for a permanent security position. Mr. Camp will also work with Mr. Carter to prepare an in-house security budget. Mr. Dorrill indicated that they were targeting May 1<sup>st</sup> as a potential start date, and he will keep the Board updated.

A budget amendment will be needed to delete the G4 costs out and roll in a new cost center which will be titled Community Patrol and will have salaries, benefits and other associated costs for that program.

Mr. Drum wanted it understood that the lead person for security will not be a management position, and Mr. Dorrill agreed. He will be the person who interacts with the operations manager and the Staff office for anything involving payroll, human resources, and other routine issues. To clarify the position, Mr. Dorrill anticipates two full time people and two part time to cover for sick leave and weekend coverage.

Mr. Drum also asked if Mr. Camp would take a look at the entire property and determine what areas of the District will be checked on a regular basis, and if there will be any accountability

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provisions in place. He also suggested that Mr. Camp should come to a Board meeting and advise the Board members of his plan. Mr. Dorrill agreed that this would be a very good idea. Mr. Dorrill added that Mr. Camp just retired from 30 years at the County where he had a very sophisticated security program in place, and Mr. Dorrill felt he could advise them on updated technology that would provide assurance that the rovers had checked the various areas within the District that were part of their post orders. A signaling device in the car will also provide information on where that car is at any time, and what the speeds were on it.

Mr. Drum agreed that this update is needed and felt that as well as advising the Board on the best security model, if Mr. Camp would also advise them of what could be done with the electronics that are in place to enhance security and accountability, that would be very appropriate. Mr. Dorrill felt that if the post orders and expectations were in writing, and technology was brought into play that would enhance that, these changes would be made. Mr. Dorrill also reminded the Board that this will not be less expensive than hiring an outside firm, as in-house security requires a higher price point to attract the type of talent that the Board expects.

As far as reporting on an enhanced security model, Mr. Dorrill will ask Mr. Camp what sort of reports should be generated that would be meaningful to the Board and can be included in their backup material on a monthly basis.

The Sheriff Office patrols will use their own vehicles and are required to be armed. There is a provision in the agreement that in the event of a 911 incident they will respond to that if it occurs while they are on duty in the District. These calls are recorded and can be retrieved if required. As a phone number will be required to contact the officers in the event of an incident, policies and procedures will be put in place to determine how these calls are responded to. Other Districts utilize an answering service that forwards all calls on a 24/7 basis when someone is not on duty at the District, and someone will be designated to take those calls and determine how they should be handled.

**D. Operations Manager Position**

Mr. Carter is in the process of indoctrination by Mr. Ellis for the position of Operations Manager. Effective April 1<sup>st</sup> Mr. Carter will take over this position through an employee leasing agreement with Dorrill Management, but he will physically be at Lely and work out of this office Monday through Friday.

**ATTORNEY’S REPORT**

**A. April Workshop**

David Wilkerson will be addressing the Board at the April meeting regarding transportation issues. Mr. Wilkerson replaced Mr. Casalanguida in this position, and he will talk to the Board specifically as to what is going on with transportation in the area, any upgrades to the system that the County may have in its annual or future operating budgets, and where he sees the growth going in this area.

Mr. Wilkerson recently made a presentation to the Naples Board of Realtors which was very well received, and Mr. Bryant feels that his remarks will be very informative. If there are other issues that the Board members would like him to address, Mr. Bryant will make sure he is aware of them.

Triangle Boulevard continues to be an issue and a concern, most specifically the traffic problems there during the season, and Mr. Drum wanted to know what the County’s plans are for this area. Additionally, Lely Island Circle was paved a number of years ago with an experimental surface, micropaving, which has not held up in certain areas due to the heavy traffic. This item will also be given to Mr. Wilkerson to address when he comes in April. Both Mr. Bryant and Mr. Dorrill spoke very highly of Mr. Wilkerson and his credentials and abilities, and the willingness both he and Mr. Casalanguida have demonstrated by coming to Lely to address the Board when invited.

**B. Litigation Mediation**

The mediation is scheduled for March 15, and Mr. Bryant has been going over the suggestions from both Mr. Lee and Mr. Campkin in his preparation. Mr. Bryant felt that perhaps the parties were getting closer to some sort of resolution on this matter. At Mr. Bryant’s request Mr. Carter reached out to Mr. Gelder at Stock Development regarding the irrigation water at Hogan’s Plaza, as the landscaping is going in and they are still hooked up to the fire hydrant for watering. The irrigation stub outs are now underground, and are connected in anticipation of water from the District. Mr. Gelder, when he was called, advised Mr. Carter that the source of the irrigation water would be discussed at the mediation.

Mr. Bryant feels this is a positive indication that Stock is looking towards settling many of the outstanding issues that are ongoing at the mediation, which Mr. Fisher will attend along with Mr. Bryant. Mr. Bryant will keep the Board advised.

C. Section between Sidewalk and Roadway/Responsibility

After a discussion the previous month Mr. Bryant checked in the Covenants on this property responsibility, and found nothing addressing the issue. However, in the Declaration of General Covenants, Conditions and Restrictions for Lely Resort, recorded March 16, 1990, it states under Landscaping that the landscape design for any plot, including the unpaved street right-of-way adjacent to the plot, which is where the palm tree discussed last month would have been, shall promote and preserve the appearance, character and value of the surrounding areas. It went on to say that when a plot is developed, the underground landscape irrigation systems were designed to irrigate the entire landscape portion, including any road right-of-way of the plot. If for any reason an owner permits his landscaping to become unsightly, the Master Property Owner's Association may take appropriate action to place it in a neat condition and charge the owner for the cost of the work.

As the Board thought the previous month when this was discussed, it is the homeowner that is responsible for the palm tree, and the Master HOA is responsible to do the work if it is not done by the homeowner.

D. Insurance Coverage Notification

In response to Mr. Campkin's question, Mr. Bryant indicated that there is a provision in the Insurance section of the Florida Statutes that says that when there is a claim made the carrier is required to notify the insured within 30 days of either acceptance or denial of coverage, or accepting coverage with a right of reservation.

The cases say that you cannot claim coverage for an uncovered event; however, the letter of denial received from the insurer raises coverage issues. Mr. Bryant is drafting a letter to the District's broker, putting them on notice that this could be an issue of bad faith, and that they should contact their Errors and Omissions carrier.

**FINANCIALS**

At the end of the first quarter financials the balance sheet showed \$2,950,000 in cash, a large portion of which is in the capital reserve fund, against \$135,000 in payables.

The income statement showed a fairly large receipt of non ad valorem assessments of \$546,000 which is consistent with the average historical percentages. Year-to-date revenues were at \$1,633,000, almost 85 percent of revenues for the entire year. Miscellaneous revenues were shown to be a combination of CSA fees as well as the other two special agreements at \$213,000 against an anticipated amount of \$190,000, 12.5 percent over budget.

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On the expense side, Worker's Comp will be over budget, and the horticultural dumpster was slightly under budget. Mr. Dorrill noted that in Pelican Bay they are mulching this horticultural debris and using it rather than purchasing it. Mr. Carter will be exploring that option.

Fuel expenses were down at 60 percent of budget, and bulk mulch for the ornamental areas has been delivered. Overall, total operating expenses at the end of the first quarter were \$588,000 against a budget of \$625,000.

In response to Mr. Drum's question, Mr. Dorrill did not feel that it would be an issue if the District decided to mulch their own horticultural material. It would not be a permanent machine, but is rented by the hour for \$250. He will look into it and advise the Board.

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

**SUPERVISORS' REQUESTS**

A. Newsletter Article

Mr. Ousley asked the Board to consider having Mrs. Fiala write an article for the upcoming newsletter, and she will be asked to see if she would be interested in doing an article that could be added to the newsletter as an insert. Dee Emerson in Mr. Dorrill's office is working on the newsletter, and the Board members will be having their picture taken after the meeting today.

B. Master HOA Meeting

Mr. Campkin reported that the HOA annual meeting would be held on March 25 at 10:00 a.m. in the library. The Board of the HOA indicated at the recent finance meeting that they were going to discuss the turnover at the annual meeting, and Mr. Campkin will attend that meeting to see how this issue is addressed.

C. Society Garlic

These plants are on the schedule to be removed, and if necessary, Mr. Dorrill indicated that they could bring the crew in to do some overtime work to get this project done. The areas where it is being removed will be sodded. Mr. Dorrill is still trying to determine if there is another place where it can be planted as it is a hardy, colorful plant.

D. Fishing in Lely

There has been some discussion recently on some of the websites about the legality of stopping fishing on the lakes in Lely. Some individual HOAs permit it, and Mr. Campkin asked if the



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CDD could stop it, and if fishing is allowed outside of LCDD areas. Mr. Dorrill indicated that this came about due to maintenance easement concerns of liability. He added that he does not believe that Chapter 190 of the Florida Statutes gives the Board the power to regulate what would otherwise be a restrictive covenant for a community. However, the District clearly has the right to post the no fishing signs on the areas that they own, and the District's property interest is in the easements.

Mr. Bryant agreed with what Mr. Dorrill said regarding ownership, but he felt that it was incumbent upon the Board to protect the health, safety and welfare not only of the CDD residents but the public at large. What prompted the sign were the large picnic/fishing events that were being held at the big lake in the front, and there were a number of children involved. These lakes could be considered an attractive nuisance, and the District could be involved in a lawsuit. Mr. Bryant pointed out that if you balance the equities of does someone have the right to fish against protecting the public, in his opinion protecting the public is greater than the right to fish and he felt that the Courts would agree. That is the reason why the Board decided to post the lakes, and Mr. Bryant still feels that it was the right decision.

When recently approached by a resident of Alden Woods on this issue, Mr. Dorrill advised him that the Board's concern relates only to the easement interest that they have around their lake. Mr. Dorrill added that an HOA's right to have someone fish in their lakes would require some research on Mr. Bryant's part. Mr. Bryant felt that before any signs were pulled from any HOA owned lakes, they will want an agreement with that HOA to hold the CDD harmless and name them as an additional insured in the event someone is injured, as the real issue is liability.

Mr. Lee added that there have been people swimming in the lakes, and they are known to have alligators.

**PUBLIC COMMENTS**

There were no comments received from the public

**ADJOURNMENT**

The next meeting will be held on March the 16th with the Sheriff's workshop at 1:00 and the regular meeting immediately following.

**The Meeting was then adjourned on a MOTION and a second at 3:00 p.m.**