

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

The regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, January 20, 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

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 of the Board were in attendance.

With the addition of Items 7A, Security; 7B, HOA Covenants; 7C, Indian Wells; 7D, Mediation, and 4B, Spring Newsletter, **the Agenda was approved on a MOTION by Mr. Lee and a second by Mr. Drum.**

APPROVAL OF MINUTES OF DECEMBER 16, 2015 MEETING

On Page 2 under Minutes Approval, the discussion related to Mr. Stock's transfer of units.

On Page 4, Mr. Ousley seconded the Motion under Holiday Bonuses.

With those corrections, the minutes were unanimously approved on a MOTION by Mr. Drum and a second by Mr. Ousley.

MANAGER'S REPORT

A. Operations Manager Retirement

Mr. Ellis will be retiring after 25 years of service at Lely at the end of March, and with the experience Mr. Carter has in working with Lely, Mr. Dorrill suggested that he be used on an expanded basis. If the Board approves this, Mr. Dorrill asked the Board to authorize the increase of Mr. Carter's billable hours so that he can work with Mr. Ellis beginning in February in order to be up to speed by the time Mr. Ellis leaves.

Additionally, Mr. Calamari may be retiring about the same time, due to some health issues, and he has also been a very valuable employee. Mr. Dorrill advised the Board that he wished to give that position more thought as it also entails mechanical ability and aptitude. Mr. Calamari is an electrician and a welder as well and has been invaluable in his work for the District. Mr. Dorrill has someone in mind for this position and will speak with him, and otherwise will do some advertising.

It is Mr. Dorrill's wish that the operations manager work a five day week, although historically the operations manager at Lely has worked four ten-hour days. A skeleton crew comes in on the weekends to make sure things are running smoothly.

On a MOTION by Mr. Fisher and a second by Mr. Ousley, the Board unanimously approved the continued staff leasing arrangement under the terms outlined with Mr. Carter, and to begin this arrangement in February to enable him to work with Mr. Ellis before March 1.

The Board members thanked Mr. Ellis for all he has done for the District.

B. Society Garlic

Mr. Dorrill described this plant for the Board, which is a member of the onion family, puts out a purple bloom year around, is maintenance free and does very well in the soil conditions at Lely. There is a patch of this plant in the median at the entrance of Indian Wells, and apparently its odor is causing some concern with residents who mistakenly thought it was a sewage issue. The Board discussed whether the plants should be removed in different areas, and Mr. Dorrill suggested that staff evaluate where the plants can be used, and will check with the Board before any decisions are made on the Society Garlic.

Mr. Campkin noted that he had received many complements from residents regarding the removal of the jasmine, as it has greatly improved the line of sight issues that were a concern. There are still several areas where the jasmine has grown large enough to block the line of sight, and they need to be removed and sod put in. Mr. Dorrill will come up with a project budget for this work, and check with the Board if a budget amendment is needed.

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C. Spring Newsletter

Mr. Dorrill thanked Mrs. Emerson in his office for doing the layout and copy for last year's newsletter which received many positive comments. Mr. Dorrill suggested some topics for the spring newsletter, including the new Freedom Horse Memorial, the long term irrigation agreement with the County for the purchase of treated wastewater, the streetlight renovations and the security analysis. Mrs. Emerson asked that a better picture of the Board of Supervisors be included in the newsletter as well.

Mr. Dorrill asked the Board members for any topics they wished to have included and to advise him as soon as possible so a proof can be brought to the Board in March. Mr. Campkin suggested that the lake system and how it works in the District would be a good topic, and that will be included as well.

ATTORNEY'S REPORT

A. Confirmation of Sheriff's Workshop in March

The Sheriff has confirmed that he will be at the Board's meeting in March, and will specifically address traffic enforcement, speeding and what other criminal activity has occurred within the District.

B. County Land Development Code

Mr. Bryant sent a thank you letter to Mr. Letourneau for his appearance at last month's workshop. He also spoke to him about the old covenants which Mr. Lee had expressed his concern about, and Mr. Letourneau will check on what the County requires as far as the ordinances dealing with stockpiling material. He will also try to get more information on short term rental issues, and indicated that he would be glad to re-address the Board at any time. Mr. Bryant is also doing research on the covenants, and anticipates having more information for the Board at the February meeting.

As it relates to the short term rentals, that will be decided solely by the Board of County Commissioners and their Land Development Code. Mr. Bryant has yet to receive any information from Ms. Fiala's office on this issue. Additionally, he has not received a reply from the County Manager as it relates to the mounded material in two places in the District.

Mr. Campkin advised the Board that he had invited Ms. Fiala to the February meeting and she has agreed to attend. Mr. Campkin specifically advised her about the concern the residents have on the short term rental issue. She will be given a time certain to accommodate her busy schedule.

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C. Letters re: Insurance Coverage

Mr. Dorrill contacted the carrier and was advised that there was no insurance coverage for breach of contract for the lawsuit; however, they never sent a formal denial to the District. When the proposed amended complaint was received, Mr. Bryant forwarded it to the carrier with a request for a formal notice from them of a declination or for coverage with a reservation of rights. That was sent on November 8th and was signed for on the 11th, but Mr. Bryant has not received a reply from them.

On January 15th a follow up letter was sent to the insurance carrier indicating that they have failed to respond, and Mr. Bryant advised them of the statute that delineates a carrier's liability and responsibility, which notes that a carrier is required within 30 days of notification of a claim to either admit that there is coverage, or there could be coverage with a reservation of rights, admit there could be coverage or legal defenses with a reservation of rights, or deny coverage. As the claims administrator for the District's carrier provided no response to the November letter, Mr. Bryant indicated in the January letter that they were acting in bad faith towards the District by not responding, which puts the District at risk. This makes the carrier liable for damages and defense costs as they have duties towards their insured to advise them of all options. The statute specifically states that the carrier cannot deny coverage if they have not responded to the initial request letter, which in this case was sent in November 8th. Mr. Bryant also advised the Board that he is aware of a case involving the County where the carrier ultimately had to pay damages and costs after failing to respond to a request for formal notice. The mediation is set for March 15th, and Mr. Bryant will keep the Board advised.

D. Mediation

Mr. Bryant discussed the option of doing a global mediation to solve all the pending issues with Stock, which could include the horse monument to ascertain Stock's position on that as well as the irrigation water for Lakoya, for their new commercial development, and for future water needs for Rattlesnake Hammock. At issue as well is the fact that the construction permits for Stock were never transferred to operating permits. Counsel for the Master HOA has agreed that it would be a good thing if all the issues could be resolved, and Mr. Bryant felt that at that point they could reach a new, easier comprehensive service agreement which would prevent these conflict issues from arising again in the future.

Mr. Bryant added that he hoped, with Mr. Fisher's assistance, that all of these issues, including the fact that there is disagreement over when turnover should take place, could be settled.

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Mr. Drum asked if Mr. Bryant had the opportunity to check the Master HOA Covenants regarding certain things they claim they have responsibility for, which they do not. He was advised that counsel for the Master HOA didn't know anything about it, but that he would look into it.

FINANCIALS

The November financials showed a current cash position of \$2,630,000, with \$1,000,000 of that amount sitting in capital reserves with the remainder being part of the operating account. \$1,068,000 was taken in during the month of November in tax assessments, a record for one month assessments. The \$15,000 shown as miscellaneous revenue was the unused fees from the tax collector from the prior year.

On the expense side certain seasonal items were shown, such as the flower program, and the audit year-to-date was over budget, but these items are not annualized. Total operating expenditures at the end of the first two months were about \$37,000 under budget on the expense side, even taking the seasonal items into account.

Mr. Lee noted that the water charges appeared to be up by \$2,000, and Mr. Dorrill advised that in the absence of a new agreement with the County, the District is paying the prevailing rates. The County had a big increase in irrigation water costs, which accounts for the extra \$2,000. Mr. Dorrill was not hopeful that any new agreement with the County would reduce that amount.

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

Mr. Carter will check on the street light costs to determine if the sales tax was included in the amount per light, and this item will be put on the February agenda for discussion. After a brief discussion, **on a MOTION by Mr. Lee and a second by Mr. Fisher, the Board unanimously approved the next phase of the streetlight renovations pursuant to Mr. Carter verifying that the costs are the same as Phase One.**

SUPERVISORS' REQUESTS

A. Security

Mr. Drum wished to discuss the option of providing security in house for the District, as he has had a problem with the lack of accountability with outside vendors. The pump house was to be periodically checked on, the parking lots closed at a certain time, trespassers at the lakes, and he felt that some of these things, among others, were not being done. Additionally, a

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considerable amount of money was spent on installing electronics in the roving car and security cameras around the horse monument, and he wondered if any reports are being provided from these extra security measures. Ultimately Mr. Drum did not feel that they are getting their money's worth, and noted that he was leaning towards hiring a lead person who is a full time employee who would report to the District manager. If additional help was needed, one or two additional people could be hired. The lead person would provide regular reports to management and there would be certain criteria that must be followed.

Mr. Dorrill indicated that if there was a properly compensated working supervisor with an assistant, that could be looked at. The annual budget for the G4 company is roughly \$100,000, and he suggested that the Board consider giving them notice, and rather than bring in the new contractor as the Board had previously voted to do, that they evaluate a new budget amendment to move the money from outside contracted services into a salaried position. In the short term, Mr. Dorrill indicated that he had spoken to the County's former security director who recently retired after 30 years, Skip Camp, who is now the vice president for security and facilities at Hodges University. Mr. Camp indicated that he would be available to prepare a protocol and scope of services for the position as well as some daily reporting formats. It was also noted that the roving car has a tracking device that sends Mr. Carter notice if it exceeds a certain proximity or preset miles per hour.

It is important that the right caliber of individual be hired to do this job if the Board decides to go with in house security. Mr. Dorrill asked for authority to give notice to G4 and to explore the option of having Mr. Camp prepare a security plan, and then to bring back a hypothetical budget for the Board to consider. If necessary, temporary security could be obtained to bridge any gap that may occur in security.

Mr. Drum then made a MOTION to approve the actions Mr. Dorrill outlined above. The Motion was seconded by Mr. Fisher and carried unanimously by the Board.

B. Compensation for Mr. Fisher

Mr. Ousley asked the Board if they felt Mr. Fisher should be compensated for the time he will be spending on the mediation with Stock and the Master Association, and was advised by Mr. Bryant that however admirable the thought is, it is not allowed by the statutes.

The previous items noted under the Supervisors Requests were addressed elsewhere during the meeting.

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PUBLIC COMMENTS

Mr. Cordell asked what the options were for the placement of the horses, and Mr. Campkin indicated that the first was just before the island at the entrance at 951, and the other was at the junction of Grand Lely and Lely Resort Boulevard.

ADJOURNMENT

The next meeting will be held on February the 17th at 1:30 p.m.

The Meeting was then adjourned on a MOTION and a second at 2:35 p.m.