

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
MARCH 16, 2016**

The regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, March 16, 2016 at 1:55 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
Collier County Sherriff Rambosk
Nathan Phillips, District CPA

INVOCATION AND PLEDGE OF ALLEGIANCE

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

APPEARANCE BY SHERIFF RAMBOSK

Sheriff Rambosk took a moment to recognize the men and women of the Sheriff's Department and the work that they are doing in the County. Crime in down the lowest that it has been since the early 1970s. It has been a busy season, with a lot of cars on the roadways.

The Sheriff's Department will be focusing on human trafficking as a big area that will be investigated in the coming year along with maintaining safety at the local level.

Next year they will be exceeding the budget that was given to them seven years previously, but some equipment is needed and the investment is a good one in helping to keep Collier County safe. Sheriff Rambosk thanked the Board for their support, and he was thanked for his attendance.

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PUBLIC COMMENT

Holly ***Valenti, a Board member at Mustang Villa, noted that she had been in contact with Mr. Dorrill, counsel and the County regarding their road maintenance. It is not a gated community, but the County has indicated that they are not responsible for them. Apparently the roadways were never recorded and therefore not accepted by the County. If the Association must maintain it themselves, then a reserve must be started. Mr. Bryant indicated that it looked like Jim Gorman, the developer, never got the County to accept it, and technically the developer is still responsible for it. If he is no longer available and the County will not accept responsibility for them, the Association will then have to begin a reserve account to cover road improvements.

After further discussion, Mr. Dorrill clarified that the master zoning document for the community required them to convey the roads to the County that were paid for with bond proceeds. If this road fell through the cracks, or ownership is not clear, some additional legal research may be needed. While there is 20 million dollars worth of infrastructure assets, the District does not own a single road other than the driveway from the maintenance building down to the first stop sign.

Mr. Dorrill indicated that he and Mr. Bryant would be happy to look at the paperwork more thoroughly and to arrange a meeting with the County engineer to discuss the conveyance process. He added that there is a question as to why the County released the bond without proof of a recorded instrument concerning the final plat.

Mr. Drum felt that this was very unfair, and suggested that the onus should be on the County as it appears to be their mistake. If this is the only public street that is not the County's responsibility through their own error, that should be addressed. Mr. Dorrill reiterated that the development order required all public streets to be conveyed to the County for maintenance or ownership. Mrs. ***Valanti will follow up with Mr. Dorrill's office and some research will be done on this issue.

ROLL CALL/APPROVAL OF AGENDA

All Board members were in attendance, **and on a MOTION by Mr. Drum and a second by Mr. Lee, the Agenda was unanimously approved by the Board.**

AUDIT PRESENTATION

Mr. Phillips provided a packet of information to the Board members on the September 30, 2015 Audit, which is considered both a compliance and regular audit and follows all regulations as

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well as generally accepted accounting principles. Mr. Phillips highlighted the main points in the audit, including the auditor's report which indicates that everything in the audit is fairly stated: the opinions, the budget and the report on the investment of public funds in a qualified depository, which the District continues to do. The Management Discussion Analysis was included which lists the highlights of what happened in 2015.

Statements of net position and activities were included on fund and accrual bases. Total assets on September 30, 2015 were 2.7 million dollars. Cash of approximately 1.8 million was noted which was higher than budgeted for due to increased revenues from the CSA agreement. Accounts payable were less than the year before at \$175,000, due to the timing of the irrigation system repair, pipe repair and professional fees associated with the ongoing litigation. The District's net position as of September 30, 2015 increased by \$185,000 due to the increased revenue over expenses that year.

The Statement of Activities showed a loss of \$79,000 on the depreciation report. The Balance Sheet overall assets showed 1.822 million, with 1,798 million of that amount in cash. Total liabilities as of that time were \$196,000. Net assets were 1.6 million. Mr. Phillips advised the Board that as they continue with their studies of the infrastructure, more money should be set aside for the capital needs.

Mr. Drum asked if the depreciation amount is offset by the capital reserve, and Mr. Phillips explained the process of how the amounts for the reserve were determined looking five years into the future. However, the cash flow of that project may not match the depreciation charge as it is taken over a useful life, whereas the capital project plan is based on when the money will be spent.

Mr. Drum then asked if enough money was being put away, and Mr. Phillips noted that the study showed at least \$200,000 being spent in the next few years, and suggested again that the Board look into assigning more to the capital reserve.

Revenues in at roughly 2.8 million dollars and expenses out at 2.633 million dollars were noted, which again was due to higher CSA fees. Effluent water costs went up, as did health care, which were the biggest part of the increase in expenses. Overall, however, the fund balance increased by \$186,000. Budget to actual was shown, which stayed the same with no budget amendments.

The Auditor General's report for auditing standards was included, which showed internal control and compliance with government laws and regulations, and there were no issues to report. No violations were reported, no deteriorating conditions, fraud or abuse.

Mr. Lee asked how the District could get rid of the pension fund, and Mr. Phillips indicated that

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despite Mr. Dorrill's efforts to shut it down, the employee cannot be reached, and the next step will have to be writing a check to the State.

Mr. Drum asked if the street lighting project was included, and was advised that as this project was completed before the end of September of 2015, and those assets have been capitalized. Until the final check is paid, however, they will not be added to the balance sheet and depreciation schedule.

Mr. Phillips was thanked for his report, and Mr. Dorrill added that independent districts such as the Lely CDD are heavily scrutinized, and all of the audit information will be transmitted to the Auditor General of the State and the Governor's office, where additional tests will be done on it. There is a select Senate subcommittee that specifically targets CDD abuse, and all the technical information given to the Board by Mr. Phillips makes the Lely CDD transparent and open.

APPROVAL OF FEBRUARY 2016 MEETING MINUTES

On Page 3, it was noted that the Aster had 108 units rather than 107.

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

MANAGER'S REPORT

A. Community Patrol Update

Based on the Board's previous direction, the G4 security contract was terminated with cause, and in the interim the Sheriff's Department has been contracted with to provide off duty armed patrols to enhance the community patrols. Their schedules are intentionally random, and they will be present during those times of day when speeding is most prevalent.

Mr. Dorrill will be meeting the following day with Skip Camp, who just retired from the County as their Facility and Security Director. He will be advising Mr. Dorrill about bringing security in house, and helping to determine the greatest needs for security along with developing some policies for the Board to adopt. Mr. Camp will also offer assistance with recruitment and selection of a working supervisor, and developing a hypothetical budget. The process will take approximately 60 days, and the Board will be kept advised.

In response to Mr. Drum's question, Mr. Dorrill indicated that a resident with a problem should call 911 or the non-emergency number depending on the situation. That information is contained in the newsletter which should be mailed as early as the following week. The old number should no longer be used.

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Mr. Lee suggested that the afternoon schedule be changed from 3:00 to 7:00 to 2:00 to 6:00, as the high school lets out at 2:00, and that is when there are many speeders. Additionally, around 7:00 in the morning there seems to be quite a few speeders on Wildflower heading to the school. Mr. Dorrill will see that these times are addressed.

Mr. Lee also asked if citations will be issued, and Mr. Dorrill advised that warnings go into the same data base as citations, and that information is available if someone is stopped a second time.

B. Street Light Renovation

The contract has been let and the budget amendment was approved the previous month. The materials have been ordered and Findley Electric has indicated that the fixtures are due to be delivered in the first week of April, and they are targeting the second week of April to start the installation. They will also be removing the old street lights, which were the old candy cane style metal poles.

C. Median Renovations

This renovation is well under way, and the society garlic is being removed. While it smells quite strongly at the moment, it will soon be completed and replaced with sod.

ATTORNEY'S REPORT

A. Presentation by Mr. Tremblay and Counsel

Counsel Christopher O'Connell appeared for Tiger Island Estates, and provided some documents to the Board members regarding the existing lake shore line. Parts of it have fallen into the lake and cannot be sprayed or mowed, and the HOA is considering putting in riprap in an effort to reclaim some of that land and Mr. O'Connell was asked if they had that right. His research showed the platted area for Tiger Island Estates, which showed the land owned by the CDD, which is where the drainage pipes come into the lake.

Mr. Bryant and Mr. O'Connell inspected that piece of property, which showed that at least seven feet of erosion on the shoreline has occurred. The pipe is under water and cannot be reached unless one goes into the water, and landscaping all around the lake is going into the water as well.

Phase 1 of the Lely Resort Plat is Tiger Island Estates, and the dedication is to Lely Resort Master Property Owners Association for a maintenance easement for the purpose of

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maintaining lakes and adjacent lake shorelines. This clearly indicates the 20 foot maintenance easement all along on that lake.

The Association was advised by their counsel that they do not have the right to go in and maintain the shoreline pursuant to the plats and documents. At this point Mr. O'Connell is trying to determine exactly who is responsible for this and how they should go about repairing the erosion problems. He added that parts of the CDD's land in between lots 139 and 140 are also falling into the lake, along with that of Tiger Island Estates owners.

Mr. Bryant asked if Mr. Guilder at Stock had been contacted, and if so, what they had to say. He was advised that Mr. O'Connell's phone call was not returned.

Initial estimates from a few of the homeowners for riprap indicated that the cost would be \$15,000 for two homes and the 20 foot area.

Mr. Drum suggested that there may be other neighborhoods where this is happening, where the lake was done by a different engineer than the builder used. He added that each HOA collects dues from their homeowners and forwards that to the Master HOA, which has done nothing for them. A massive cleanup of the lakes will fall on all the homeowners, but the dedication of that area is to the Master HOA, and is their responsibility. Mr. Drum suggested that it should be a joint effort of all the affected HOAs.

A homeowner at Tiger Island Estate indicated that this was a time sensitive issue, and some of the erosion is critical and people's houses are beginning to be threatened. There are already homes that have riprap placed in the lake as well.

B. HOA Responsibilities

Mr. Bryant noted that Mr. O'Connell's request raised another issue having to do with the Master HOA responsibilities, and should be added to the list of things that need to be discussed with the Master in an effort to reach a global settlement.

It appears that this issue happened when Lely first began, and Mr. Bryant agreed with Mr. Drum in his suggestion that there are probably other Associations with similar problems.

Mr. Fisher was unable to attend mediation due to some medical issues, and once he is able to attend, a time will be scheduled.

Mr. Drum pointed out that a large Banyan tree appears to be threatened by erosion at Pinnacle Cove, which would also be the HOA's responsibility. Mr. Bryant asked if any of the Board members feel they have a similar issue in any of their communities where there is a dedication to the Master HOA, to please advise him so it can be researched.

Mr. Campkin pointed out that even if the Master HOA did pay for it, the costs would be passed

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on to the individual HOAs. Mr. Bryant agreed, but noted that someone would have to pay for it, as the problem needs to be addressed. Mr. Drum asked about the different responsibilities that the Master HOA had versus the CDD as far as raising assessments, and Mr. Dorrill explained the requirements the CDD had to notify all residents via certified mail if the assessment is raised the slightest bit, while the HOA can raise their assessments at will. As Mr. Bryant has indicated, they are trying to get a global settlement on all the outstanding issues between the Master and the CDD at the mediation. As part of the turnover process there is usually an inspection report, which would provide information on the lack of action on the part of the Master to maintain this asset. An audit is also required, which may be an incentive to Stock as well, as he has never levied lake maintenance assessment. In response to Mr. Drum's question, even if a community has no lake, as part of the Master they will be required to help pay for it, as everyone receives a drainage benefit of equal value through the lakes.

Mr. Campkin stressed the need for haste in determining how many associations are involved as some homes are being threatened with this erosion.

Mr. Lee asked if any of the other six corporations that signed off on the plat had any responsibility for this situation, and Mr. Bryant indicated that while Stock bought the assets of the Lely Development Corporation, he also bought the dirt and those responsibilities that were originally those of the Development Corporation.

C. April Workshop

The Planning and Growth Management Director will be at Lely for a workshop in April, and Mr. Bryant asked the Board members to let him know if there are any topics they wished the Director to come prepared to address.

Mr. Dorrill suggested that the Tiger Island Estate issue could be discussed with him as well, as it is his engineering department that is reviewing plats for consistency.

FINANCIALS

The month ending January 31, four month financials were provided to the Board members, showing \$2,800,000 in cash against \$116,000 in payables.

The income statement showed \$66,000 in tax assessments having been received during the month of January, which was money paid in December but not transmitted to the CDD until January. Total year-to-date assessments stood at 87 percent, and the first quarter CSA fees were \$213,000. The second quarter assessment was received after the financials were done.

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Total revenues through four months were \$1,915,000 which is ahead of budget by about \$80,000.

On the expense side the total expenses through the end of four months for all operating accounts was \$40,000 below budget, and these will continue to be monitored.

On a MOTION by Mr. Fisher and a second by Mr. Ousley, the financial report was unanimously accepted by the Board.

SUPERVISORS REQUESTS

A. K-Mart Bear

The trapper can be at Lely within four hours and everyone was encouraged to call Mr. Fisher if the bear is seen. A bear trap is available to catch it, and it will be taken to a preserve near Tampa. Mrs. ***Pelosi asked for a number to call in the bear is sighted, and it is 775-1900. There is a large alligator in the pond near K-Mart. And everyone was urged to be cautious.

B. Public Comment

Mr.*** Cordone of Pinnacle Cove asked about the coyotes, and was advised that they were waiting on a license before they can be touched.

ADJOURNMENT

The next meeting will be held on April 20th with the Planning and Growth Management workshop at 1:00 and the regular meeting immediately following.

The Meeting was then adjourned on a MOTION by Mr. Drum and a second by Mr. Ousley at 3:12 p.m.