

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
Minutes of the Board of Supervisors Workshop
December 20, 2017**

A workshop of the Supervisors of Lely Community Development District was held on Wednesday, December 20, 2017 at 1 p.m. at the LCDD Maintenance Building.

SUPERVISORS PRESENT: William Lee, Chairman
Robert Fisher, Vice-Chairman
Kenneth Drum, Secretary
Harold Ousley, Treasurer
Gerry Campkin, Supervisor

ALSO PRESENT: W. Neil Dorrill, Dorrill Management Group, Manager and
Assistant Secretary/Treasurer
Kevin Carter, Dorrill Management
Freddy Bowers, Operations Manager

**SPECIAL WORKSHOP TO INTERVIEW PROSPECTIVE LAW FIRMS TO SERVE
AS THE NEXT GENERAL COUNSEL TO THE DISTRICT**

Mr. Dorrill opened the workshop, indicating that four law firms had representatives present. The two large firms were Coleman, Yovanovich and Koester, Naples based, and Henderson, Franklin, which is a Fort Myers firm, with a Bonita Springs office. The Salvatori and Salvatori firm is a small one, and the firm of Woodward, Pires and Lombardo is a medium sized firm.

Mr. Dorrill noted that he currently works with two of the firms, one at Pelican Marsh and the other at Key Marco. Further, he suggested that the Board question them on their current experience, background and knowledge as it relates to special purpose districts and the statutes regarding compliance and regulations as well as their capacity to give the Lely CDD the time and attention they have enjoyed from counsel in the past. Mr. Dorrill also felt that it was important for the Board to have local counsel rather than one from a bigger firm in Orlando or Tallahassee.

In response to Mr. Campkin's question regarding rates, Mr. Dorrill indicated that they had paid Mr. Bryant \$175 an hour which he felt was a good rate, adding that Mr. Bryant did not have the overhead that some of the represented firms do have.

In response to a question from Mr. Drum, Mr. Dorrill indicated that he and the chairman had spent some time prequalifying firms based on their knowledge of local government and real estate related matters.

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Greg Urbancic was introduced by Mr. Dorrill, who indicated that he worked with Mr. Urbancic on Key Marco, and that his entire practice is involved in special purpose and local government.

Mr. Urbancic indicated that he was from the Coleman firm, and noted that Mr. Bryant had been a friend of his, and well respected.

Eleven of the lawyers in their firm work in some way with real property, real estate and local government law, while his practice is primarily community development district law and he represents about 20 CDDs. He indicated to the Board that this is what he does and he would work closely with them. He started his practice by working for the cities of Marco Island, Naples, and the School District, and gained that experience with municipal law, which then developed into the representation of special districts, which is what he likes to do.

He noted that they were on the other side of the lawsuit the District had, and his partner Ed Koester was the one who represented the Master Association. Mr. Urbancic indicated that he did not do a lot of work with Mr. Koester, that his practice was in other areas, and he works on a different floor as well. In the positive sense, if there was ever litigation Mr. Koester would be the one that the Board would want to represent them as he never stops working and is an excellent litigator.

Mr., Urbancic grew up in Cleveland, Ohio, and went to law school in Virginia, He moved to Naples and has been with the same firm since 2002.

Mr. Campkin asked if Mr. Urbancic's firm had ever taken action against any of the HOAs that are in the CDD. Mr. Urbancic noted that there was some action with respect to a guard gate at some point in time, but that he was not sure, as he does not always know what everyone in his office is doing.

As Mr. Urbancic's firm represents both sides of issues, Mr. Drum wondered if they could handle opposing sides of litigation within the firm, and does the firm have a direction towards one side or the other. Mr. Urbancic indicated that they do have a direction, and they are zealous advocates for their clients in the most efficient way possible. As his firm does represent some developers as well as doing District work, he felt that there could be some crossover, but they have not experienced any issues with this thus far. There are seven shareholders in the firm who meet fairly regularly, and they have a good idea of what everyone is doing, and are careful not to take inconsistent positions.

Mr. Drum referred to an issue that occurred in the past where Mr. Urbancic's firm was hired to give an opinion on whether or not Lely Resort Boulevard could be turned into a six lane road. The opinion indicated that it could possibly be done, but it would not be a

favorable thing. However, when the firm was engaged it advised the Board that as they represent a number of developers, that they would give them an opinion letter, but could not be involved in any litigation. Although the case did not go forward, Mr. Drum expressed his concern about this should some litigation be required and it involved perhaps a developer represented by the firm as well.

Mr. Urbancic understood his concern, and indicated that he did not see much of a crossover in what he does representing districts, as much of what they do is consistent with Statutes 189 and 190, which are fairly clear. Additionally, as the community is looking at turnover sometime during 2018, many of those developer issues may be behind them.

Mr. Ousley also noted that Mr., Yovanovich had never answered a question concerning ownership of Lake 17 that he was asked to look into. Another issue that may have to be dealt with is Horseshoe Drive, which needs attention as it continues to be confusing. He was assured that Mr. Urbancic had considerable experience along these lines.

Mr. Campkin noted that the Lely CDD and the Lely Master Association has had some conflict between them, and Mr. Urbancic indicated that he was aware of what both entities do, and was in fact part of the original work on the CSA agreement. Mr. Campkin also asked if Mr. Urbancic could guarantee that he would never miss a meeting, and Mr. Urbancic assured him that he would do his best. He could not guarantee that, but looking at all the CDDs he represents, he felt that he had only missed two meetings. He added that unless he was out of town or had an emergency, he would be the one doing the work and representing the District. Additionally, he has no conflicts with the third Wednesday of the month Board meetings.

Mr. Campkin noted as well that Mr. Bryant was excellent as it relates to having an answer to a legal question on the spur of the moment, and Mr. Urbancic was confident that with his work with CDDs for over 15 years he will be able to provide that same service.

Mr. Campkin's final question related to the relationship Mr. Urbancic had with the Sheriff, Collier County officials and attorneys, as Mr. Bryant knew them personally and was always able to reach them if necessary. Mr. Urbancic assured him that he knew all of the officials and attorneys at the County, as well as the Sheriff and other personnel, and did not feel that this would ever be an issue.

Mr. Urbancic was asked if there was a minimum charge, and advised that there was not, and that work would be charged as it was done. He added that he will be happy to represent the District as long as they wish him to. He does not charge for quick trips from one location to another, but spending hours at meetings a trip charge is typically

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made. As it relates to mailing and correspondence, if there are certified mailings or that sort of thing, the cost of mailing is charged without markup. Mr. Urbancic's paralegal will have costs that will be charged to the District.

In response to a question about Mr. Urbancic's relationship with Mrs. Fiala, he indicated that he knows her and sees her often, although he would not call the relationship close.

He did feel that he knows her well enough to telephone her and ask a question.

If one of Mr. Urbancic's partners is on the other side of an issue, ethically they cannot go against each other, and would have to recuse themselves.

Mr. Urbancic was then thanked for his appearance.

Jeff Wright from Henderson, Franklin introduced himself as well as Russell Schropp, the managing partner of the firm, and Molly Maggiano, an associate with a strong CDD background, and thanked the Board for allowing them to appear.

Mr. Schropp provided an overview of the law firm of Henderson Franklin, noting that they have been in the Southwest Florida area since 1924, and presently has 58 lawyers with a wide variety of practice areas. As indicated in the proposal, Jeff and Molly would be the primary contacts. Their expertise is in governmental practice, real estate, land use, along with other areas that they do have depth in as well. They will have an office in the Pelican Bay Financial Center in the early spring, and Mr. Wright will be one of the partners in residence at that Naples office, and Ms. Maggiano will be working out of there as well.

Mr. Wright then pointed out that they do not represent any developers in Lely, and he wanted the Board to be aware of that. He understood that one of the core assignments for Lely is to be prepared for the meetings and to advise the Board and be available for their questions and to work with management to execute the Board's policies. What sets their firm apart is the depth of practice that they have, which would be a value to the District in that their expertise would be seamless in answering most all of the issues that could come before the CDD.

Mr. Wright worked for ten years for Collier County, and his first eight years was as an assistant County attorney, and the last two were as the Code Enforcement director, and most of his time was spent in the Growth Management Division, which has several different areas under it. While at the County, he dealt with several CDD issues and often advised the County Commissioners as to what a CDD is and what it meant regarding several different things, including zoning, transient rental issues within the HOAs and many others.

Through the process of working for the County and in private practice he understood the

need to fight for the client, regardless of who the opponent was. He has come up against many powerful clients, but he understood that the client is the most important part, and you have to be fearless about it. Mr. Wright also mentioned that Mrs. Maggiano has a unique background in CDD work and a strong real estate background as well.

Mrs. Maggiano indicated that she has been in the real estate industry since 2004, working in the land development department of a large developer and associate counsel.

(Inaudible sections.) She then worked with Community Associations and Development Districts with a firm based out of Tampa with an office in Fort Myers, from smaller districts to large ones. She worked very closely with the Districts on the management side and has an understanding of how districts operate and the issues they face. Working with counsel for this firm helped push her to go back into the practice of law as she enjoyed working in this field with people, and she joined the Henderson Franklin firm a couple of years ago. (Inaudible.)

Mr. Ousley asked if the attorneys would be at their meetings, either one every other week, or how that would work. Mr. Wright indicated that he would be the designated counsel for the regular meetings, and Mrs. Maggiano would be the go-to associate for specific issues involving the CDD with a lower rate for research.

Mr. Ousley had also asked about the relationship they may have with the County officials, Commissioners and the Sheriff's Department, and Mr. Wright assured them that working with the County, he knew everyone quite well.

Mr. Drum asked if their firm represented any developers, and if so, how any conflict would be handled. He also asked if they would be afraid to sue another attorney. Mr. Wright spoke to the second question, and indicated that they would not be afraid to sue another attorney. He deferred to Mr. Schropp to answer the first, who indicated that he should have advised them that his specialty is land use and development, primarily in Lee and Charlotte, although they do have some in Collier County. They have not represented Stock Development, in any event, so he did not see a conflict there. Mr. Schropp added that suing attorneys can be done, and a good portion of their practice is the defense of lawyer suits, which is part of the insurance defense work that they do.

Mr. Campkin asked that in relation to legal action, have they at any time during the past five years taken action against the Lely CDD or any of the HOAs within the District. Mr. Schropp indicated that he did not think so, but noted that he did understand the differences between a CDD and the Master Association.

Mr. Wright also indicated that there was no problem with him attending the 1:30 monthly meeting on the third Wednesday with the Lely CDD. Mr. Campkin noted that one of the things Mr. Bryant was very good at was providing legal advice and answers "on-the-fly"

at meetings, and if he did not know something he would get back to them immediately. Mr. Wright felt that this comes with the territory, and he was prepared to offer that same service to the Board.

Mr. Drum noted that most of Lely Resort was deed restricted, and the firm that the Board hires will probably be hired by some of the Lely communities. He asked what Mr. Wright's experience was with defending deed restrictions, and asked if he had ever opposed them in the past. Mr. Wright noted that he was very familiar with what is involved with enforcing deed restrictions. (Inaudible) In the past they may have represented a party on the opposite side, but more recently they have defended them. Mr. Ousley asked if their rate included transportation, and he was advised that there would be no charge coming to Lely from Lee County, and would usually operate out of the Naples office. Mr. Schropp indicated that historically they always have a designated attorney at all the Board meetings, barring any kind of emergencies, and there will always be a backup attorney present.

Mr. Ousley asked if there would be any conflict in the firm if both sides were represented by Henderson, Franklin, and while Mr. Schropp indicated that this can happen, the firm has no relationship with Stock Development, who is the primary developer in Lely. Mr. Dorrill noted that the firm has an excellent reputation, and that it was nice to learn that they are opening an office in Naples. The representatives were thanked for their appearance.

Leo Salvatori introduced himself after Mr. Dorrill gave a brief background to him of what the procedure would be. Mr. Salvatori introduced himself and his partner and daughter, Lauren Josephson, who practices with him. He advised the Board that he started with a smaller firm in 1980, then joined a large national firm for 20 years, then worked with a midsize firm until this summer when he went into practice with his daughter. He has lived in town 50 years, and her daughter has lived here all her life. He stated that they are basically a boutique firm, primarily working with real estate developers and doing real estate transactions and a lot of lenders. Mr. Salvatori represents the City of Everglades on real estate matters, but other than that they don't have any municipal law experience, and he realized that every firm that they are speaking with will have more experience than they do.

They have worked with CDDs in the past, but have never represented them, and Lely would be their first CDD experience. He did feel, however, that given time, anybody can become an expert in anything, and felt that this would only take a matter of a few months. Mrs. Josephson added her own personal experience with CDDs actually came with her

experience at Pelican Marsh with a notice of possible liability issue. She had pointed this out to Mr. Dorrill who worked with her on it, which is how she knows him.

Mr. Salvatori graduated from Naples High School and Stetson University, then on to law school at Stetson, graduating in 1980. He did do some litigation when he first graduated, but his background is primarily real estate. His daughter also did some litigation for a while, but both of them found that they cannot do litigation and real estate, and she also chose the real estate field.

Their financial experience is deep on the financial and lender sides, and Mr. Salvatori has done some isolated work for a CDD in Estero, but only on some limited issues. Mr. Dorrill asked if they were familiar with the statutes that apply to CDDs and special purpose districts, and their working knowledge of compliance aspects. Mr. Salvatori indicated that in working with big developers there are often CDD issues, and he is familiar with those issues as well as regulatory issues. Mrs. Josephson added that the Statutes have been renumbered, and 189 is now primarily dealing with budget issues, and Chapter 190 is the primary CDD statute, which they are familiar with. Also associations sometimes run along the same line, and there are crossovers where they will reference the statute. The only area she felt they would need to delve into would be the financial aspects, and which filings need to be submitted to the state, and what the requirements are. While her experience is small, she knows where to look, and she is very interested in specializing in a certain area, and was excited about this opportunity.

Mr. Drum indicated that one of the things they liked so much about Mr. Bryant, their former counsel, was that he believed in what he was fighting for when you were his client. Lely has had a need for a fighter in the past when it came to legal issues, and he asked what kind of trial experience Mr. Salvatori and Mrs. Josephson had, as well as with mediation and arbitration.

Mr. Salvatori indicated that he has not had to litigate a case since the 1990s, as most of the cases he works on are business based. But as often happens with Chapter 190 issues, the litigators don't always know the business side. He still works with litigators in his old firm as he has the business expertise that they need to be better fighters. While his work is minimal, his daughter indicated that she did have an opportunity to give oral argument in front of the First DCA, and has had a couple of trials as well working as co-counsel, which all dealt with association and real estate issues.

Mr. Drum advised that they had to sue an attorney for malpractice, and asked if Mr. Salvatori would be afraid to sue another attorney. Mr. Salvatori indicated that he would never be afraid to do that if they had done something wrong. He hesitated only because

he would think it better to have an expert rather than himself as he may tend to hold back in suing another attorney, and would question his ability to do a good job. He would never hesitate to get a good litigator if one was required for the District.

Mr. Campkin asked if Mr. Salvatori would be able to make the third Wednesday monthly Board meetings, and Mr. Salvatori indicated that his daughter would be the one representing the Board at the monthly meetings, and absent illness or emergencies, that would not be an issue. He was also asked how well he knew the County manager and attorneys and the Commissioners. Mr. Salvatori indicated that he knew Mr. Ochs and had dealt with him in the past. On a number of occasions he has gone before the County Commission and knows his way through that process.

Mr. Ousley asked if his rate included transportation, and Mr. Salvatori indicated that his daughter's rate was \$275 an hour, and he would be happy to work with them on an arrangement that is not pure hourly that would perhaps work better for them all. They also review their rates on an annual basis. They could also work on the transportation rate as well, as that can depend on the time involved.

Mr. Dorrill thanked Mr. Salvatori and Mrs. Josephson for appearing today. He added after they left that Mr. Salvatori was very humble, as he is recognized as one of the finest land use and real estate attorneys in town, and while he was with the National firm he was the managing partner.

Tony Pires was introduced to the Board and Mr. Dorrill explained how the process would work. Mr. Dorrill indicated that his firm was one of four that was prequalified, and he asked Mr. Pires to provide information on his firm and its history and his experience.

Mr. Pires also introduced Lenore Brakefield who also has experience in the field of government matters. He noticed on his submittal that the contact information for the Chairman of the Gateway Services CDD was missing. Mrs. Fienberg has been added and her information was available for any Board member who wished to have it.

Mr. Pires has lived in Collier County since 1975, and started off as an assistant State attorney in misdemeanors, and worked up to the felony level. After doing many jury trials he decided he wanted to work for the County Attorney's office, and started as the assistant County attorney, where he met Mr. Dorrill. At that time everyone was on the same floor and he got to know a lot of people very quickly. He was there two years, and then went back to State Attorney's office as he found that he liked trial work. He was assigned to all five counties of the 20th Judicial Circuit, and worked many big cases with FDLE and law enforcement agencies in Lee, Collier, Charlotte, Glades and Hendry Counties.

After a few years, he took the opportunity to work for Westinghouse Communities of Naples, the developer of Pelican Bay, as in-house counsel. They started to do Pelican Marsh after that, and later sold to another group.

He acted as in-house counsel for three years, and during that time interfaced with developers and residents as well as people in the County system, in zoning, planning, building and permitting.

At that time he met Art and Mark Woodward as they were representing developers in Pelican Bay, and joined their firm in 1986 and have been with them ever since. Since 1993/1994 he has represented Community Development Districts and still represents five of them. He is Board Certified in city, county and local government law since 1998, and he is presently up for re-certification.

Mr. Pires has represented and continues to represent individuals in front of city councils, planning boards, planning commissions and county commissions, both in favor of and in opposition to zoning and land use matters. He is familiar with the Public Record and Sunshine Laws and takes a very conservative approach to the Sunshine Law. He is also familiar with Chapter 112 of the Florida Statutes dealing with voting laws and conflicts of interest, and how that comes into play with public officials.

His law firm was founded in 1971, and there are 13 attorneys, four partners, eight associates and one new attorney of counsel who specializes in securities matters. He added that Mrs. Brakefield has had tremendous experience in the local government sector for years, and is as familiar as Mr. Pires with the Public Record and Sunshine Laws, the CCNA and the competitive solicitation processes. There are other attorneys in the firm who assist in litigation, and both he and Mrs. Brakefield have extensive litigation experience.

Mr. Pires has good working relationships with managers and consultants and engineers, and noticed that Terry Cole is Lely's District engineer, as he is for Fiddler's Creek 1 and 2 who he represents. One of the things he has enjoyed working with these various managers, consultants and engineers is they are all looking out for the best interests of the client, and if from a legal perspective he feels that one of them is wrong or that they need to take a different course of action, he will give them his legal advice on a very high, professional plane, and they always work well together as a team with the districts that he represents.

His firm prides itself on being up on the latest technologies and they have a support staff that stays current with this. From the standpoint of protecting clients, the District is the client, and the managers, Board members, and their team, that is who the client is, and

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that is who they focus on. They have malpractice coverage of \$4,000,000 per claim, in the aggregate, and professional liability coverage. Mr. Pires added that they are accessible; they are local with a Naples office as well as the one on Marco Island. The proposed rates were outlined in the materials, and are \$200 to \$250 an hour for partner, and typically a government discount is given. Associates range from \$125 to \$200, and paralegals from \$75 to \$100 an hour. Litigation can run up to \$300 an hour. Many of the attorneys are very involved in the community, working on Boards and with charitable organizations.

Lenore Brakefield introduced herself, indicating that she grew up in Naples and has been practicing law for 14 years. She has been with the firm for two years, and prior to that she was with Bond, Schoeneck and King, who represented the Mosquito District and the Naples Airport Authority, among others. That was her area of expertise, and she learned that law and helped represent the Airport in a big, very public litigation. She also helps Mr. Pires with his CDD work when he has conflicts or if he needs an extra set of eyes, and she can fill in for Mr. Pires very easily.

They were recently hired as the City of Everglades counsel to represent the city and the council members in a litigation that was brought by the Florida Department of Environmental Protection, and just recently hired as the city's counsel, and she is part of the team that represents them. She is presently involved in litigation out of Hardee County involving public records, and it is on appeal at this time. Other than government law her main specialty is civil litigation, and those are her two big areas with some contract work as well.

Mr. Pires added that they represent the Clerk of Courts, Dwight Brock, on a retainer basis, and he has also represented the Property Appraiser and former Sheriff Don Hunter, among others.

Mr. Drum asked Mr. Pires if he had any reservations about suing another attorney if it was necessary, as often in cases a district is the little guy. They have had cases with Stock Development and Lely Development in the past. Mr. Pires felt that this was an excellent question, and noted that he has been criticized by others as being more aggressive than necessary, and he advised the Board of a lawsuit from the past where they filed a lawsuit on behalf of the District against an engineer and the fire district engineer who had certified a system that had failed. More recently the County had initiated a Code Enforcement action regarding a fence that the Pelican Marsh CDD did not own, and to bring matters to a head, Mr. Pires initiated a resolution process that is outlined in the Statute, and that resolved the issue.

In response to a question Mr. Pires indicated that his firm does represent HOAs, and

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Mrs. Brakefield will come in if a lawsuit is filed.

Mr. Drum indicated that they have a lot of deed restrictions and enforcement issues, and he felt that the attorney they hire will probably get more work from the HOAs. Mr. Pires noted that to the extent that it does not pose a conflict with the District, that would work fine.

Mr. Campkin noted that the question of conflicts has come up in these discussions, and he asked if Mr. Pires or his firm ever taken legal action against the Lely CDD or any of the HOAs within the District. Mr. Pires indicated that there were none against the CDD at all, and none against the associations that he was aware of. He noted that he absolutely understood the difference between the Lely CDD and the Master Association, and in response to whether he personally could attend the monthly third Wednesday meeting at 1:30, Mr. Pires indicated that barring some unforeseen circumstances, that there was no problem with that.

Mr. Campkin also noted that one of the things Mr. Bryant did so well was to give “on-the-fly” answers to questions during meetings, and asked if Mr. Pires felt comfortable with that as well. He indicated that he did, and if he did not know an answer he would find it and advise the Board as soon as possible.

Mr. Ousley asked what Mr. Pires’ rate was and if there was a transportation rate, and was advised that travel time would be part of any negotiation.

Mr. Pires and Mrs. Brakefield were thanked for their attendance, and Mr. Dorrill indicated that the Woodward Firm had an excellent reputation and he appreciated them coming.

The Workshop was then concluded and a brief recess was taken.