

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
March 15, 2017**

The regular meeting of the Lely Community Development District Board of Supervisors was held on Wednesday, March 15 at 1:50 p.m. at the LCDD Maintenance Building.

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

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

INVOCATION AND PLEDGE OF ALLEGIANCE

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

PUBLIC COMMENT

No public comments were received.

ROLL CALL/APPROVAL OF AGENDA

All members were present at the meeting, and with the addition of items 5A, Bill of Sale; 7A. Horses; 7B, Security; 7C, Alligators; 7D, Newsletter; 7E, Streetlights; 7F, Employee Salary Schedule, and 7G, Flagpole, **the Agenda was unanimously approved on a MOTION by Mr. Fisher and a second by Mr. Ousley.**

APPROVAL OF FEBRUARY REGULAR MEETING MINUTES

The February meeting minutes were unanimously approved on a MOTION by Mr. Campkin and a second by Mr. Ousley.

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MANAGER’S REPORT

D. Lake Bank Erosion Survey

This item was addressed first as an accommodation to Mr. Cole who has determined ownership of various lakes and evaluated the levels of erosion in them.

Mr. Cole passed out copies of his survey results to the Board, noting that discussions about lake erosion have been held over the years at Lely, and he spoke to them about the lake erosion project at Fiddler’s Creek that has been going on for several years. He noted that Lely is somewhat similar regarding the difference between the rainy season elevations and the dry season elevations in the lakes, which is typically a few feet drop from the beginning of October to the end of May. Verona Walk has a five to six foot drop in that time period. This has been somewhat of a dry year, and Naples is presently in the dry season.

From time to time over the past several years work has been done on various lakes, and ten years ago or so Falcons Glen had an erosion problem and Geotubes were used. A picture of that was included in the packet, along with a spread sheet of the lakes that have been reviewed over the last few weeks, details of the cross-sections of the Geotubes, and several pictures as well. Three lakes were used as examples of work that needed to be done.

Mr. Cole explained the Geotube in detail with the cross-section diagram, and noted that the three cases were of one, two and three permanent bag installations. The bags are ten feet in diameter and sand and silt from the lake bottom and sides are pumped up and into them. The top lip of the bag is generally placed at the wet season water elevation which is typically where the grass starts to grow. A second bag is filled, cut and spread over the area, and then sod is placed on top of it. This method is very effective for repair as well as being cost effective. Repair plans were done for three lakes, and the exhibit showed an area of yellow which was the maintenance responsibility of the CDD, blue as the responsibility of the Lely Resort Master HOA, which is the majority of the rest of the area. A few small areas in gray are the responsibility of the individual HOAs or “unknown”. The area included as the “responsibility” would include the lake bank, and the aquatic vegetation in the lake itself.

Mr. Drum asked about a claim recently made by a homeowner in Tiger Island that erosion had taken place to within a few feet of their lanai. He wondered if this is the definition of responsibility that would apply, which would include subsidence. Mr. Cole indicated that he and Mr. Carter had been talking about Lake 4 with a similar issue, which has areas needing multiple layers of bags, which had some riprap repair already on it.

The rule of thumb from the Water Management District is if the drop is less than nine inches

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then you don't need to fix it. Pictures were provided to illustrate the issues, and Picture 2 showed a section of 9 to 12 inches of erosion. Pictures of riprap were also shown, and a steep drop off area was also shown that needed a 25 foot area repair, which would be a case 3 Geotube repair. Another picture was shown of the lake bank for comparison purposes that did not need repair. The life span of the Geotube repair is 20 years plus.

The rate of erosion really depends upon a lot of factors, and occurs naturally, but if there is side lot drainage, for instance, a pipe can be run to the edge of the lake grass, and runoff can cause problems such as subsidence, which can also occur in other situations.

Mr. Cole again went over the different lakes in Lely and whose responsibility they are as indicated by the color coding, and Mr. Drum noted that there was an argument made at a recent Master HOA meeting that the South Florida Water Management District actually has the authority to direct the Master or the CDD to go ahead and meet their responsibility to repair, and he wondered why that was the case. Mr. Cole noted that when a project gets a permit from the Water Management District and is platted, that indicates who is responsible for maintaining the water management system. He added that he has never known anyone to be forced by the Water Management District in that way in his many years of working with them, and Mr. Bryant noted that typically the Water Management District does not want to take negative action against an HOA or a CDD. They would rather encourage them to come into compliance.

Mr. Campkin added that the Water Management District has control over stormwater and irrigation water, and the question was then asked in looking at all 80 lakes, what the difference was in financial responsibility for the blue and yellow lakes.

Mr. Cole answered that in the packet provided to the Board, the report gives information on roughly nine lakes, and then shows roughly 3,000 feet of lake that is case 1A, quite a bit of that being Lake 4, and the cost would run about \$109,000 on the nine lakes.

So far the estimates on the blue and yellow lakes are about \$112,000, and the costs when everything is done would be probably to \$500,000 to \$700,000.

Mr. Ousley noted that the financial responsibility for blue seemed to be less than that of yellow, and he asked if there was a big problem in the blue area, if the CDD would be less obligated moneywise than the yellow. Mr. Cole deferred to Mr. Bryant for this answer, and Mr. Bryant noted that when the District decides what work it wants to do, its own work schedule can be set up over a specific time period based on how much money they want to spend. He suggested that Mr. Cole was giving them a worst case scenario with the last number, so they can determine year by year what they can do.

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Mr. Drum asked Mr. Dorrill if a reserve should be set up for this, and Mr. Dorrill initially asked Mr. Cole regarding the 9 inch/12 inch criteria, if that was contained within some sort of construction manual or standards tied towards construction that has been adopted by South Florida Water Management, or is it someone's opinion. Mr. Cole indicated that this information came nine or ten years ago when the Water District sent their notice of violation to Fiddlers Creek, and he did not remember all of the details, but his recollection was that it is a logical determination made by safety concerns. He did not recall if it was in writing in a manual, but it did come in writing from the Water Management District as to what the criteria was. Mr. Dorrill recommended that with Mr. Cole's help, staff should do a little more evaluation on this issue, to determine what entity is adopting these guidelines and if they have the authority to do so.

In response to Mr. Drum's question about a reserve, Mr. Dorrill indicated that he was contacted by Stock Development the previous week, and they have asked for a pre-turnover planning session for the Master HOA. What is driving them is their increasing concern over the ownership and maintenance of erosion issues. Mr. Dorrill indicated that he felt the Board may be interested as the primary public works provider for the community, however, certain things may need to be brought up to a standard where the CDD would accept ownership. Mr. Dorrill will bring the Board more information following the meeting, but if the Board decides that the CDD will begin to address these problems, the answer to setting up a reserve would be yes. This may want to be addressed at the May budget workshop meeting where Mr. Dorrill also presents the five year sliding capital improvement program, which may need a new category. Mr. Bryant felt that Mr. Dorrill made an excellent point, and that all of this ties into the site plan being approved for the new 304 units being built at Rattlesnake.

Mr. Campkin added that at the Master HOA meeting when their responsibility for the lakes was raised, they did not see it as their responsibility at all.

Mr. Campkin asked if the three lakes that were picked out were the worst, and was advised that they were among the worst, and if so, he did not feel that the quoted amount for their repair was out of line. Mr. Drum asked what the time would be to bring all these lakes up to speed, and Mr. Dorrill said that they would probably be looking at a three to five year time frame, in light of his experience in other CDDs. He agreed with a statement made by Mr. Drum that if this project was done over five years, it would cost roughly \$100,000 a year to get all the lakes taken care of.

Mr. Dorrill will report to the Board after his meeting with Stock, and will look into any information available as it relates to the 9 inch/12 inch criteria. Mr. Campkin felt that

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fewer problems should be found in the yellow sections as the developments are newer, and Mr. Dorrill added that some of the problem has to do with soil conditions, prevailing winds and littoral plantings.

Mr. Drum felt it was important to get an adopted, working definition of what the District is responsible for, and the Board agreed. Mr. Ousley did feel that the presentation still had left some questions unanswered, and the question of lake ownership still needed to be answered. Mr. Dorrill felt that the bottom line question was at what point would the lake bank go beyond maintenance and into reconstruction. Mr. Cole added that just because you don't own a lake doesn't mean you're not responsible for maintenance. For the most part the CDD is given the maintenance responsibility for the lakes, where the underlying ownership is the developer or their successor.

Mr. Bryant asked if this does not tie back to the fact that the District is the responsible party under the surface water permit from the Water District to maintain the surface water program throughout the CDD, and Mr. Cole answered that generally the answer is yes, but with the different projects and different phases, it could be that the CDD was named as the entity responsible for maintenance, but sometimes it could be that the developer or the HOA was named. Mr. Bryant then noted that it was true that the District always wanted a governmental entity to be responsible for this because they have more confidence in that entity than some construction company.

Mr. Dorrill noted, however, that historically maintenance in this community has been spraying to control noxious aquatic or exotic plants, and the maintenance in some areas of littoral plants. In the old neighborhoods there was no responsibility to install littorals, but in second or third generation communities they do have the responsibility for littorals, and to control algae. In his opinion, the area of restoring lake banks exceeds maintenance and becomes reconstruction. Unless and until the District decides that this is something they want to do, they should get more information before a policy change is made over what has been done in the past. Further, they should determine if Stock is willing to make some contribution to this effort to get the lakes to the point where the CDD would want to accept them for ownership as well as maintenance. Mr. Bryant agreed.

Mr. Cole indicated that they will continue to do the inventory and acquire information. He added at this point that they are still working to get the right-of-way permit to install the two other park benches by the new horses.

Mr. Cole was thanked for his presentation.

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A. February Sheriff and Community Patrol Reports

Mr. Dorrill indicated that the enhanced program with the Sheriff has been underway for almost a year, and in the past year 592 traffic stops were made by them, and 42 actual citations with fines were issued. Three criminal arrests were made following a traffic stop.

February's report showed 31 stops for the Sheriff's Department with warnings and one actual citation with fines. There were no arrests during the course of February.

Within the CDD program, there were nine trespassing incidents, eight of which involved nonresidents, with some associated safety and loitering issues.

Mr. Dorrill asked that perhaps at the April meeting if it would be possible to have the entire community patrol appear so the Board can meet these individuals and associate faces and names. There are some highly qualified people in this program, and Mr. Dorrill would like to introduce them to the Board and the community.

There were three complaint calls from residents, one regarding the no trespass signs on the golf course, (Inaudible section.)

B. Suggested Queen Palm Alternatives

Mr. Dorrill attached for the Board his thoughts on the replacement of these trees, and also the suggestions of Ellen Goetz, who is a member of the family that owns the Naples Beach Hotel, and a driving force behind the creation of the Naples Botanical Garden. She is a recognized landscape architect and an expert in the subtropics of South Florida.

Mr. Dorrill advised Mrs. Goetz of the fungal disease that is attacking the Queen Palms and the need to replace them, and wondered what her advice would be about the Florida Magnolia and the Southern Holly.

Mrs. Goetz said that soil conditions in this area are not conducive for the Magnolia, but she thought that the Southern Holly would do well, although they are small. She made two other suggestions, Gumbo Limbos which are unusual looking with distinctive bark, and the Florida Black Olive which are canopy trees. She also suggested that the District give some thought to grouping trees rather than linear placement. She added that giving diversity with groupings will also help combat disease, with sod in between. She also felt that this would create patches of shade for walkers.

C. Snail Maintenance Update

A series of things have been done to address this issue. Mr. Carter hired a specialty company to come in and pull and clean the screens in the wet well, and they recommended that some

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periodic flushing be done in the system on one of the six or eight inch mains. Mr. Carter had indicated that when the drain is first opened the water is almost black as it is full of snails, and after 15 minutes the water was running clear. Mr. Carter on his own has taken the initiative to develop a flushing program, and the screens and wet well will also be put on a preventative maintenance program.

A commercial diver was also hired to evaluate the system, and provided a video to staff to show what he found. He has given them a proposal to provide a basket filter on the end of the intake pipe. These new maintenance techniques are an effort to address the concerns of the residents and eliminate as many snails as possible. The flushing is done on Triangle and Lely Island at the lake edge. There are only a handful of areas for this, and staff is in the process of constructing blow off areas in other parts of the community.

E. Printer's Proof for 2017 Newsletter

Mr. Dorrill gave all the credit to Dee Emerson in his office, who with Kevin's support put together an excellent newsletter. They are getting ready to go to print and hopefully mailed out the following week. 7,000 copies of this newsletter will be sent by first class mail which was budgeted for. The Board commented that the newsletter was excellent.

ATTORNEY'S REPORT

Mr. Bryant's report on the Bill of Sale will be addressed under Supervisors' Requests.

FINANCIALS

The end of January financials showed \$3,200,000 in cash against \$105,000 in accounts payable. Total assets including fixed capital assets are \$13,776,000. The income statement showed almost \$70,000 coming in during the month of January in non ad valorem assessments which is higher than usual, because people paid late in the calendar year.

Expenses showed a couple of meaningful items. The insurance premium this year was less than was originally forecast, and that line item is almost \$12,000 below budget. Field Management was about \$10,000 under budget on wages, some of which is due to vacancies.

Overall there was a large repair earlier in the year involving the horses, where all the underwater lights were replaced on the US 41 side, so that line item was over budget.

Additionally they were slightly over budget on chemicals, but that is a seasonal purchase. Total operating expenditures for the first four months of the fiscal year were \$115,000 under budget thanks to Mr. Carter.

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Mr. Dorrill was asked if FEMA insurance could be obtained for the CDD landscaping, and he advised that they do have property insurance with the standard wind deductible, which is high, and property coverage cannot extend to landscaping. If a hurricane came through and destroyed a million dollars worth of trees, it would take a congressional appropriation if the president declared a natural disaster. Mr. Ousley asked if it was a good idea to have hurricane insurance on top of what they have, and Mr. Dorrill indicated that they had a good relationship with the underwriter with the Public Government Insurance Trust, who recently asked Mr. Dorrill if they could do a story in their magazine about the unusual insurance provisions for the Lely Freedom Horses. That will be shared with the Board when it is published. Mr. Dorrill will explore with them if they can get a rider to their insurance coverage to include wind related damage or loss to landscaping, but it is his experience that you cannot insure landscaping. Mr. Campkin noted that they were way under budget for contractual services, and Mr. Dorrill advised that historically that is when they also paid for Mr. Carter's time to come in and do large capital maintenance projects, and now that Mr. Carter is at Lely full time, it is less. However, as it relates to the lake bank issues, there may be some field or project management expenses either with Mr. Cole or another staff member to help Mr. Carter.

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

Mr. Dorrill also noted that in January he had advised the Board that a budget amendment would be needed, which he misstated to the Board's advantage what he thought was in the adopted budget for field management. He thought the number was \$12,800 when in fact it was \$25,000. A revised copy of the amendment will be attached to the minutes of next month's meeting, which ended up reducing the amount of the amendment by \$13,000.

SUPERVISORS' REQUESTS

A. Bill of Sale

Mr. Bryant advised that in relation to the Freedom Horse bill of sale from Stock, it was noted that they had described what the document included. The District already had a bill of sale when they took ownership to them in 2009. When the District and Stock were in mediation, there was discussion about Stock giving the District a bill of sale for the Freedom Horse Monument, and there was resistance from the Stock representatives to that. Their position was that they would give the District a bill of sale for the Freedom Horses themselves. Ultimately Stock agreed with the CDD's position, and they have given the Board a bill of sale not only to the horses, but to the hardscape and the lighting and the improvements, in essence

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everything connected to the monument with the exception of the dirt. Now there will be no questions when staff works on the monument, as it belongs to the Lely CDD.

There have also been some comments about the patina on the horses, and the chairman will be commenting on that, and as all of it now belongs to the Board, he suggested that they go ahead and re-patina them.

Mr. Bryant noted that after the agreement was reached, there has been more collegiality between Stock and the District, and Mr. Fisher agreed. Everyone seems to realize that Stock will be out of Lely in two to three years, and everyone wants to make the turnover as seamless as possible. These are all positive things that have been accomplished at the end of the litigation, and Mr. Bryant indicated that he was very happy that it ended this way.

Mr. Lee noted that Stock had indicated he was going to contact the gentleman who does the horse patina, but it has not been done.

Mr. Lee then made a MOTION that the District arrange to have this done, and Mr. Fisher seconded the Motion. The Board briefly discussed the costs involved in this work, which will cost approximately \$2,500 to accomplish. Mr. Carter will call the gentleman and make arrangements for this work.

The landscaping has been done, and Mr. Bryant suggested that the Board consider where they want to see the flag placed. He further suggested that it would be a nice idea to talk with Stock's representatives about what the Board wished to do, and get any suggestions they have to offer. Additionally, Mr. Carter will be asked to contact Mr. Cole to determine where the best placement will be in consideration of esthetics and safety issues.

B. Alligators

Mr. Ousley noted that he is no longer the contact for alligator control, and that Kevin Carter is handling it. Any calls he gets he will be referring them to Kevin. The feature story about alligators that includes general information will show this number change.

C. Deputizing Reserve Police

Mr. Ousley asked if there was any way to deputize reserve police for Mr. Bowers, and Mr. Bryant indicated that there was not.

D. Newsletter Photograph

Mr. Ousley complimented the photographer on the picture of the new Horse Monument, as all three horses were captured in one terrific picture.

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E. Streetlights

Mr. Lee suggested to the Board that where it is possible, and starting with Tiger Island, they should replace the current lighting with LED lights. In speaking with Mr. Carter, he was advised that all of them would have to be done at the same time because the power source has to be changed. In the long run this will be cost effective in more than one way.

Mr. Dorrill asked if the fuse was in the bulb or part of the ballast assembly, and Mr. Carter indicated that it was part of the bulb. These bulbs last much longer than regular lights, and once they are put into service they must be registered for the warranty. The complete cost to do this area will be \$50,000 to \$60,000. (Inaudible comments by Mr. Lee.)

Mr. Dorrill indicated that no motion was needed on this issue, and if there are issues involved with the electric work, he will advise the Board.

F. Cameras for Horse Monument

Mr. Carter indicated that they were working with the camera company, who is working with the developer of Stock Plaza where access to Comcast can be obtained. Mr. Carter will bring a complete update on this to the next meeting.

PUBLIC COMMENT

A resident spoke to the fishing issue, noting that he had attended the Master HOA meeting where he was advised that they do not deny fishing. In checking the minutes back many years, there was never a prohibition against fishing, and this gentleman indicated that he did not understand the Board's position.

Mr. Drum indicated that he was against fishing because he does not want people fishing behind his house. The resident clarified that he meant in the common areas, not behind anyone's home, and the original signs when he first moved to Lely read no trespassing except for Lely residents. Now most of the citations given are to Lely residents.

Mr. Dorrill noted that during the last two months the vast majority of fishing related events was nonresidents, and in February there were nine citations, eight of whom were nonresidents.

This gentleman did not understand why some sort of agreement could be reached when there were general covenants that allowed fishing, and there are other residents who feel the same way. He was advised that the issue was moot at this point as the Board has already voted on it. Mr. Lee explained the issues that the Board discussed as it relates to fishing and why the

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decision was ultimately made to prohibit it, which was primarily for the safety of the residents. Tony Iglío from Lely Island Estates indicated that the website was confusing for him as it was not clear on the information it gave. According to the website the Board members had four year terms, but then he was told it was six year terms. Mr. Dorrill explained that they were staggered four year terms, meaning they do not all run at the same time. Mr. Iglío asked if the Board received a salary, and Mr. Dorrill advised that they do not receive a salary, but a State applied per diem of \$200 per meeting, per the Statute.

Mr. Iglío stated that the Board represented the residents, to both the State and on everything else as well. He advised that there was a very big problem at 41 at the Horses entrance, and a traffic study was done by the DOT as ordered by Mrs. Passidomo, as apparently no one on the Board has contacted the Legislature. Mrs. Passidomo advised Mr. Iglío that the DOT did a traffic study in October and determined that a traffic light was not needed. Mr. Iglío pointed out that October is a very slow month, and the traffic is substantially down from the seasonal months. He asked why the Board members did not press this issue with the DOT, and advise them that in January the city and roadways are full, and there is a real danger in trying to get in and out of Lely at that intersection. Porkchops do not work, as people don't pay any attention to them in their efforts to pull into traffic. He asked the Board to put a stop to this and get in touch with the Legislature to have the DOT come back and put in a traffic signal.

It was noted that 41 is a Federal highway, not a State highway, and Mr. Lee indicated that they have discussed this issue many times with their County Commissioner, Mrs. Fiala, who did go to the State for the traffic study. When asked why the study was done in October, Mr. Dorrill stated that the DOT scientifically used a model that increases the total and annual average based on the time of year. He invited Mr. Iglío to come to the workshop to be held before the regular meeting the following month for the annual Transportation and Growth Management Workshop.

Mr. Dorrill also indicated that this subject has been exhaustively discussed on at least two major occasions, which included Commissioner Fiala and the top County transportation officials. Mr. Lee added that installation of the porkchop will begin on April 3rd, and Mr. Iglío suggested that this could be stopped with an injunction.

Mr. Iglío also indicated that there was another problem on Grand Lely and Lely Island Boulevard by the Classics, where many accidents occur because people don't stop. He suggested that stop signs with flashing lights around it should be installed, as that works on Marco Island where they have found it to be very effective in getting people to stop.

Mr. Lee noted that Stock did not put the sign at the Players Club in, that it was done by their

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Association. Mr. Iglie suggested that the flashing lights could be put on the four corners of Grand Lely and Lely Island Boulevard, which would be more effective in getting people to stop. Mr. Dorrill again urged Mr. Iglie to come to next month's workshop where this particular issue can be addressed as those roads are owned and operated by the County. Additionally, the issue of the traffic signal at 41 can be brought up as well if Mr. Iglie wished to address it then. Mr. Iglie was thanked for his concern and his comments.

ADJOURNMENT

With the reminder that the April meeting was to be held on the 19th, starting at 1:00 with the Transportation Workshop, **the meeting was adjourned on a MOTION and a second at 3:00 p.m.**