

**LELY COMMUNITY DEVELOPMENT DISTRICT
NAPLES, FLORIDA
REGULAR MEETING OF THE BOARD OF SUPERVISORS
October 17, 2018**

The regular meeting of the Lely Community Development District Board of Directors was held on Wednesday, October 17, 2018 at 1:30 p.m. at the LCDD Maintenance Building, Naples, Florida.

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

ALSO PRESENT: Neil Dorrill, Dorrill Management Group
Kevin Carter, Operations Manager
Tony Pires, District Counsel
Freddy Bowers, Director of Community Patrol
Don Roper, Esq.

INVOCATION/PLEDGE OF ALLEGIANCE

Mr. Dorrill offered an invocation, and the Pledge was recited in unison.

ROLL CALL

All members were noted to be in attendance.

CLOSED DOOR SESSION - Defeo vs. Lely CDD

Mr. Pires advised for the record that this meeting was requested at the previous meeting according to Florida Statute, and notice of the closed door session was advertized in the Naples Daily News. As indicated in the notice, the attorney/client session will be held pursuant to Section 286.011(8) of the Florida Statutes, and the following persons will be present at the closed session: Supervisors William Lee, Harold Ousley, Gerry Campkin and Ken Drum; District Manager Neil Dorrill, Special Counsel Donald Roper, Mr. Pires, and the court reporter, who will take verbatim minutes of the session. The minutes of the session will be transcribed and will remain sealed until such time as the litigation has been concluded, when it will become part of

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the public record. The discussions during the session will be about litigation strategy, defenses and expenses, but no decision making can occur in the closed door session, The Board will retire to the office to conduct the closed door session, and at the conclusion of this session the Board will return to the open session and be requested to take specific action.

At 1:34 p.m. the Board members and the above-mentioned participants then entered into the closed door session in the Maintenance Building office.

At 2:24 p.m. the Board reconvened in open session.

Mr. Roper then asked the Board for a motion to approve the proposed settlement agreement that was submitted in the closed door session.

On a MOTION by Mr. Ousley and a second by Mr. Campkin, the Board unanimously approved the settlement agreement proposed by Mr. Roper.

Mr. Roper was thanked for his appearance at the Lely CDD meeting.

PUBLIC COMMENT

It was noted that a pair of nesting eagles may be across the lake at the Maintenance Building.

APPROVAL OF AGENDA

With the addition of items 7A, Dewatering Pump; 7B, Master Association Budget Meeting; 7C, Meeting with Vespa representative; and 7D, Sunshine Workshop in January, **the Agenda was approved on a MOTION by Mr. Drum and a second by Mr. Campkin.**

APPROVAL OF SEPTEMBER MINUTES

As it relates to the Workshop Minutes, **the Minutes were approved on a MOTION by Mr. Ousley and a second by Mr. Drum.**

As it relates to the Regular Meeting Minutes, on Page 1 in the second line of the lead in, the date is September rather than August.

On Page 2, under Street Sign Painting, in the second line, the correct spelling of the company doing the work is "Lykins".

On Page 3 in the fourth line from the bottom, the word "decisions" should be replaced with "discussions"

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On Page 6, the last word in the last line should be “Saunders”.

On a MOTION by Mr. Ousley and a second by Mr. Campkin, the Regular Meeting Minutes were then unanimously approved as amended.

MANAGER’S REPORT

A. September Community Patrol

As of yet there is no contract in place with the Sheriff’s Department, and Mr. Bowers advised that they will not be back as they are spending the extra time at the various schools in the County. He will contact Lt. Mulholland or Corporal Gibson and ask them what if anything is in writing concerning special duty assignments.

There were 35 reported incidents of different types, including two animal sightings, a coyote and possibly a python. A few trespass and loitering incidents involving homeless people occurred, which Mr. Bowers indicated was getting to be more of a problem at the lake on US 41. Mr. Lee indicated that this was dangerous due to the alligators which have been sighted early in the mornings.

Mr. Dorrill advised the Board that he had learned from another district that the sheriff is no longer recognizing No Trespass agreements that may be on file due to a challenge to one of those agreements. Mr. Bowers will also check to see if the Sheriff has some alternative trespass process to address this issue, as homeless people and panhandling is a continuing issue in the area. Apparently if the authorized agent of the District calls the Sheriff’s Department regarding a no trespass situation, they will respond.

Mr. Campkin indicated that there continues to be a problem with speeders, not only the high school students but golfers and tennis players who are late for a game, or professional people, such as lawyers. Mr. Drum reported that he was at a meeting recently where there were several complaints about speeding on Grand Lely between the Classics County Club and Rattlesnake Hammock Road. Mr. Lee reported that he had seen several cars speeding that morning as well.

B. ADA Website Recommendations

Mr. Dorrill advised that the initial assessments and recommendations have been authorized for the evaluation of the Lely website by the firm suggested by the Florida Association of Special Districts. He will be bringing a full analysis of this to the Board for their determination of the number of pages that will be posted, and to make decisions on limiting their risk by posting only the documents that need to be on the website. This firm will also do ongoing updates and

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maintenance of the site, which will be memorialized as an exhibit to their contract.

C. Repainting of the Street Sign Posts Proposals

Three proposals were received for this work, and staff is recommending awarding it to Community Specialties, which was the lowest and most responsive bidder at \$185 per sign. Changing the name plate was included in the proposal from Lykins, but would be a separate price. Mr. Dorrill asked of the 75 poles being refurbished, if any of the street name placards need to be replaced, as this should be done at the same time.

On a MOTION by Mr. Ousley and a second by Mr. Campkin, the Board unanimously awarded the contract on the street sign posts to Community Specialties in the amount of \$13,875.

This contract does not include the other signs that were knocked down in the storm, and Mr. Carter indicated that they were working on those now.

D. FY 2019 Vehicle Purchase

Staff will be placing an order on the District fleet and vehicle purchases, and Mr. Carter advised that in addition to the Ford Explorer they are purchasing a patrol car. A pickup truck may be purchased in lieu of another Ford, but in any case two vehicles are being purchased under the State of Florida fleet contract at a substantial discount.

The Board will be advised when they arrive.

E. Landscape Concept Sketches

A proposal has been received from the landscape architect, Mrs. Goetz, for concept sketches for new plant beds along Celeste Boulevard and the total fixed fees are less than the requirement to take competitive proposals. This is the area where the worst landscape damage was done, but Lely Resort Boulevard and Grand Lely also need work. This is the first phase of the work that needs to be done.

Mr. Lee pointed out that Celeste is the least traveled street of those that need attention, and Mr. Dorrill suggested that under the scope of services portion of the Goetz proposal, that Grand Lely, Wildflower, and Lely Resort Boulevard should be added to that section and evaluated. Mr. Dorrill felt that anything that would be a maintenance type item for dead or dying plants would be under the CSA Agreement. Anything involving capital re-landscaping is not eligible under the CSA, but the Goetz firm will be asked to take a look at that as well.

If the Master Association wished to re-landscape portions of Grand Lely the way that the Classics Plantation HOA has done, that is at the cost of the Master Association.

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Mr. Pires added that depending upon the final price for the work, the threshold for competitive solicitation may be crossed. Mr. Dorrill agreed that if for some reason it appears that it will exceed the threshold, then he will bring this back to the Board.

In response to Mr. Drum's question about the work Mrs. Goetz will prepare, Mr. Dorrill agreed that his original impression was that she would do these concept drawings for groupings or planter beds, which did not happen. Mr. Carter was asked to follow up with Mrs. Goetz about a month ago, and she indicated that she did not realize she had been authorized to go forward with these concept drawings.

Mr. Drum expressed concern about whether there would be an issue with her completing the work as she travels north for periods of time, and Mr. Dorrill indicated that she does work for several Districts in the area as well as the Naples Botanical Gardens, and felt that she may have had more work than normal and got behind. He added that it was his understanding that they would have the drawings completed by the end of the calendar year, and the contract would include that time requirement.

Mr. Dorrill further suggested that the Board authorize the contract, with the desired changes, and to plan a meeting with Mrs. Goetz. The landscaping will then be bid out in accordance with the set of plans provided.

On a MOTION by Mr. Ousley and a second by Mr. Drum, the Board unanimously authorized the contract with the desired changes as discussed.

ATTORNEY'S REPORT

Mr. Pires had nothing further to bring before the Board.

FINANCIALS

A. FEMA Reimbursement Status

This informational item was to advise the Board that they are tracking the reimbursement money through a four step process which involves FEMA and the State of Florida as well as Ernst and Young to pre-audit certain categories of expenditures.

Mr. Drum advised that they had received a letter a week previously rejecting his claim of \$23,000, after FEMA indicated that it should be awarded, on the grounds that under some FEMA rule they were not eligible. That raised the question as to whether residents who live on a public street have to pay for the removal of hurricane debris. Mr. Dorrill indicated that they did not have to if it was within the public right-of-way. The risk comes into play if screens and landscaping from private property is dragged out to the curb for pickup.

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Mr. Drum added that they didn't see the County for a month after the storm, and the County is indicating that the LCDD had that responsibility for pickup. Mr. Dorrill indicated that the County is responsible for that clearing of the public roads, which in this case Mr. Drum is talking about Lely Island Circle. Mr. Dorrill added that he had the same issue at Pelican Bay, where the County did not show up until the 6th of December. As was the case at Lely, it was picked up with in-house resources and manpower. Mr. Dorrill suggested that the plan going forward should perhaps be that Lely will do the public road cleanup with its own resources if the County cannot or will not do so.

Mr. Ousley then asked Mr. Dorrill if he knew where their money was at this point, whether it was still with FEMA or in the hands of the State. He was advised that FEMA cuts the check to the State, who then pays some portion of it. The \$96,000 shown on the information provided is the maximum Lely can receive.

B. Financials

At the end of August the District had \$2,700,000 in cash, half of which is in reserves. Total assets including the infrastructure and the fixed assets came to an additional \$13,000,000. There was only \$4,300 in payables at the end of August.

Under the income statement, Mr. Dorrill noted that through the end of August they had not received the Board of County Commissioner's CS services payments for the library or Emergency Services. Mr. Carter was asked to check with the bookkeeper to make sure that it has been received. The CSA revenues are almost \$85,000 over budget as a result of more aggressive growth in those areas. Going forward, it will be slightly more than \$250,000 in the new year for CSA revenues per quarter. Additionally, through the end of August the interest earnings were \$31,000, where only \$5,000 had been budgeted. The District will end the year with almost \$30,000 over budget in interest earnings due to the change to Florida Integrity Bank.

Related to expenses, under field management they are about \$12,000 below budget year-to-date on horticultural dumpster removal costs, due to the loss of horticulture during the storm and the decreased trimming expenses. Plant replacement, however, is \$13,000 over budget which is due to the amount of landscaping replaced in house. Any landscaping required for the Goetz project will be separate.

Chemicals under water management were under budget year-to-date, as there has not been a big algae problem thus far. Year-to-date outside contractual services is over budget, related to street lighting and lightning strikes. \$27,000 has been spent so far on these repairs.

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The total operating expenditures year to date for all categories was \$324,000 under budget. Some of that was Mr. Carter keeping the expenses down when possible, as well as some unexpected circumstances, such as the need for chemicals being down as alluded to earlier. Mr. Dorrill asked if the supplemental roadway sweeping had been suspended, and was advised that they are no longer utilized. Any street sweepers that are in the District are owned and paid for by the Board of County Commissioners.

Mr. Campkin asked that the irrigation lines be checked for snails again as they are having some problems with them, and Mr. Carter advised him that he has been treating for that. There have been a number of blow-offs and that treatment will be continued. Mr. Campkin noted they have had to work on every *** in their community as the filters are clogged.

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

SUPERVISORS' REQUESTS

A. Pump Purchase

This item relates to the main line rupture in the irrigation system that occurred the previous week, and during the initial repairs it was discovered that close to 50 feet of the pipe had been fractured. Because the system is ageing, Mr. Dorrill asked Mr. Carter to look into purchasing a large throw out pump to clear out the hole that will fill with water once the system is shut down. The system should be back up and running within a day. If it takes any longer, another blast email will be sent out to advise everyone.

B. Master HOA Meeting

The Master Budget meeting was held on October 2, and \$50.42 per unit will be charged by the Master for the coming year, which is a 58 cent reduction. Their CFO indicated that \$136,000 was spent by the Master on hurricane damages. They also indicated that they had roughly a \$190,000 carryover from the lawsuit. Their independent auditor is still working on their books prior to turnover, and indicated to them that they may have to pay taxes on that amount. Mr. Lee suggested to them that they forego charging the \$50.42 and use the carryover amount, which they indicated they were thinking about.

C. Meeting with *Filippe**

Mr. Lee indicated that he and Mr. Carter had met with this gentleman from the Master Association representing Vesta, and Mr. Lee asked him about the changes in the

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Declaration of Covenants in the Master Association. He was advised that the Master had hired a management company with experience in turnovers.

(Further inaudible comments by Mr. Lee)

One of the declarations indicated that they changed the PUD in 2017, and Mr. Lee asked if we were collecting a CDD assessment for the Signature Club.

Mr. Dorrill indicated that the CDD methodology is ultimately revised or reflected every time the developer either plats a subdivision or records a condominium. It is then tweaked up or down depending on the actual density. He noted that he will ask Alice Carlson, the assessment roll administrator, to verify the number of units currently allocated for the Signature Club.

Mr. Lee added that these changes happened about three weeks earlier, and this is the first they were advised of it. Apparently there is a change as well in the way they are voting, which would change the dynamic of that process.

Additionally, they discussed the turnover of the Master to the CDD, but Mr. Lee reminded them that about 25 percent of the Master Association is not within the CDD, and would have no voting rights.

Mr. Pires suggested that he would have to determine what is meant by turnover by the Master Association to the District, as those two organizations do entirely different things. He will sit down with Mr. Dorrill to get all the information on this, as he has never heard of a CDD taking over all the functions of a Master Association. He will also look into Chapter 190 as it relates to enforcing covenants. Mr. Pires will bring further information on this to the Board at the next meeting.

D. New Board Member Orientation

This will be scheduled for January after the November elections.

PUBLIC COMMENT

There were no further public comments to come before the Board.

ADJOURNMENT

Mr. Dorrill reminded the Board that the November meeting would be held on the 14th, and **the meeting was then adjourned on a MOTION by Mr. Drum and a second by Mr. Campkin at 2:30 p.m.**