

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD OF SUPERVISORS MEETING
October 15, 2014**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, October 15, 2014, at 9:00 a.m. at the Pelican Marsh Foundation Building.

APPEARANCES:

Frank Garofalo, Chairman
Robert Smith, Vice-Chairman (Via Speakerphone)
Gordon Walker, Supervisor
Sally Dupler, Supervisor

ALSO PRESENT

W. Neil Dorrill, Dorrill Management Group
Dave Robson, District Engineer
Anthony Pires, District Counsel
John Vanover, Operations Manager
James Calamari, Access Control

ROLL CALL

Chairman Garofalo, Mr. Walker and Mrs. Dupler were noted to be in attendance with Mr. Smith appearing via speakerphone.

The Chairman asked Mr. Dorrill to speak on the death of Mr. Fitzgerald, which occurred the previous weekend. Mr. Dorrill asked for a moment of silence, and offered a prayer for Mr. Fitzgerald. Mr. Smith added that as well as being a great supervisor, Mr. Fitzgerald was a very fine person.

Mr. Dorrill noted as well that a previous Board Member, Tom **Karafa, also recently passed away.

Mr. Smith's appearance via speakerphone and full participation in the meeting due to exceptional circumstances was unanimously approved on a MOTION by Gordon Walker and a second by Sally Dupler.

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APPROVAL OF AGENDA

Mr. Dorrill indicated that the group health insurance renewal has been received, and a discussion of the proposed premium was added as Item 5B.

On a MOTION by Robert Smith and a second by Sally Dupler, the Agenda with that addition was unanimously approved by the Board.

APPROVAL OF MINUTES OF SEPTEMBER 17 REGULAR MEETING

On Page 6, in the third line of the third paragraph, the word “where” should be “were”.

On Page 7, the Motion maker in the first Motion was Gordon Walker rather than Gordon Brown.

On Page 8, when the word “Association” is used, it should be replaced with “Ventura HOA”.

Also on Page 8, in the third line, the word “position” should be “portion”.

On Page 10, in the third line from the bottom, the word “tournament” should be replaced with “event”.

On Page 11, the word “tournament” in the last line of the first paragraph should be deleted.

On Page 12, in the first line of the Engineer’s Report, Mr. Carter’s first name, Kevin, should be inserted.

On Page 15, on the first line, the words “or over a” should be deleted and the word “approximately” added to that sentence.

With those corrections, the Minutes were unanimously approved on a MOTION by Gordon Walker and a second by Robert Smith.

FINANCIALS

Mr. Dorrill noted that he did not review the financials with Mr. Fitzgerald; however, when he visited with him a few weeks previously Mr. Fitzgerald had indicated how much he had enjoyed the privilege of being the treasurer for Pelican Marsh,

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The 11th month financials, ending August 31, were provided to the Board members, and showed cash on hand at that time of \$1,300,000 against \$56,000 in payables.

The income statement year-to-date showed actual revenues of \$3,320,000 against the year-to-date budget of \$3,330,000, which is a function of the accelerated discounts that were taken on the non-ad valorem assessments.

Mr. Walker asked if the NDM Water Management costs were contractual at \$7,400, as the amount listed was slightly less. Mr. Dorrill advised him that the water management company was paid a proportional share of the value of the cost within that cost center, so some years it is slightly less, other years it is slightly more.

Year-to-date revenues were in accordance with budgeted amounts, and year-to-date operating expenses remained at \$110,000 under budget throughout all the cost centers as the District entered its final month of the fiscal year, which was a reflection of Mr. Vanover's ability to control costs.

The overages, which have been discussed in the past months, were mainly in access control overtime as there were some problems filling some of the positions that were open.

Operating expenses year-to-date were \$2,750,000 against a \$2,860,000 budget.

Mr. Smith asked about the \$76.50 amount noted for the Board of Supervisors fees which was supposed to be checked on, and Mr. Dorrill indicated that the bookkeeper did check on that but he did not get an answer, and he will make sure that is followed up on.

Mr. Smith also asked about the amounts on the health insurance, and Mr. Dorrill indicated that those get prepaid, and he will discuss that further under the Manager's Report.

On a MOTION by Gordon Walker and a second by Sally Dupler, the financials were unanimously accepted by the Board.

Mr. Smith then noted that the chemicals were over as well, and was advised that those costs were seasonal, and extra whitefly fighting chemicals were purchased. The budget has been bumped up to cover that in the next fiscal year, although the whiteflies appear to be declining.

MANAGER'S REPORT

A. Group Health Insurance

Unfortunately, Mr. Dorrill did not receive the Pelican Marsh insurance document from their account representative in time for today's meeting, but via voice message he advised Mr. Dorrill that the District's premium is going up by only 3.8 percent for the PPO plan they currently have. This compares with the Lely CDD, whose premiums have gone by almost 15 percent.

Mr. Dorrill will provide this document that outlines the plan to the Board as soon as he receives it, and **on a MOTION by Gordon Walker and a second by Robert Smith, the Board unanimously approved the renewal of the group health insurance policy.**

B. Open Supervisor Position

Mr. Dorrill advised the Board that he had visited with Mr. Fitzgerald two weeks ago, at which time he had signed a resignation letter which was effective immediately. In advance of that Mr. Dorrill had spoken to Dave Carpenter, who is the qualifying officer at the Supervisor of Elections office. Mr. Carpenter advised him that the Statute is very clear that it is at the Board's discretion to replace the supervisor.

Mr. Dorrill indicated that he was not asking them to do that at this meeting, but as Mr. Fitzgerald was going to run unopposed for his position, he wondered if the selection the Board makes will be for the four year term. Mr. Pires advised the Board that there is a vacancy for Mr. Fitzgerald's remaining term which will run until the second Tuesday following the general election. Mr. Smith suggested that the selection take place at the December meeting to give people time to apply for it. Mr. Pires noted that in the mail received from Mr. Carpenter, he had referred Mr. Dorrill to Statute 190.06.3(B), which says that if no elector qualifies for a seat to be filled in an election, that a vacancy in that seat shall be declared by the Board effective on the second Tuesday following the election. Within 90 days thereafter the Board shall appoint a

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qualified elector to fill the vacancy. Mr. Pires added that this appears to be applicable to Community Development Districts, and that there is also a Statute that generally applies to vacancies when there is no particular candidate for the office, which is slightly different than the one provided to the Board.

With the Board's approval, Mr. Pires will work with the Manager and the Chairman, and contact the Florida Secretary of State who makes the rulings on all elections. The only possible complication is that Mr. Fitzgerald did not have an opportunity to withdraw his candidacy before his passing. The Board will then declare the seat open at the November meeting, and within 90 days thereafter the appointment should be made. In response to the Chairman's question, Mr. Pires indicated that the Board is free to set up a process for applicants to send their information to Mr. Dorrill. Mr. Dorrill suggested that information be put on the website indicating that the Board would be interested in receiving letters of interest or resumes from people in anticipation of an appointment being made. An email blast will be sent out once Mr. Pires gets clarification from the State.

Mr. Pires will check with the Secretary of State and the Board will be kept advised.

The Board briefly discussed the fact that Mr. Smith will not be present at the November meeting, and Mr. Walker will not be at the December meeting, so the selection will be made in January when the full Board is present.

ATTORNEY'S REPORT

A. Request for Closed Door Session

Pursuant to Section 286.011(8), Florida Statutes, and the pending litigation of Prats vs. Tiburon Estates Homeowners Association, et.al, Collier County Circuit Court Case 2014-CA-2090, per the Statute Mr. Pires advised the Board at the public meeting that he desired to have a closed door session concerning this pending litigation. Mr. Smith indicated that he would not be back until the 21st of November at the earliest, and after a brief discussion, the Board agreed that the

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closed session would be held immediately following the regular meeting on the 19th, as a director cannot attend a closed session by speakerphone. Mr. Pires will advise Mr. Smith as to what occurred in that session after it is completed.

Mr. Pires then briefly advised the Board as to what the closed door session would entail, and indicated that they had been served by the attorneys for the Prats regarding allegations about access, transponders, and public records law. Mr. Pires will be preparing a response, and he touched briefly on his firm's representation and the District's insurance coverage in this regard.

B. Meeting with County

On October 23rd a conflict assessment meeting will be held with the County. Notices have been placed in the newspaper as required, and Mr. Pires, Mr. Dorrill and Chairman Garofalo will be attending, and possibly Mr. Vanover as well.

The dispute resolution process continues to be followed, and if this meeting is not successful in providing a solution, the final step will be mediation with the County Commissioners in public session before litigation.

ENGINEER'S REPORT

A. SFWMD Certification and Transfer

A certification letter was received on many of the transfers, and Mr. Robson will follow up on the few that were not included in the letter. He advised the Board, however, that there were no problems.

B. Mercato Development

At the Chairman's request, Mr. Robson advised those present as to the development that is being planned for Mercato, as there was some concern as to whether it would impact the stormwater system at Pelican Marsh. He indicated that they should see no change, although

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the discharge rate could go up slightly. However, it must stay under the permitted level. Additionally, if Mercato increases the density, they will have to demonstrate that it will not impact Pelican Marsh.

Mr. Pires added that from the perspective of the CDD's issue, the esthetics is not the District's issue, but that of the residents. The water management is the District's issue, and any impact on the District's infrastructure is their concern. Mr. Pires suggested that if Mr. Robson and Mr. Dorrill have not yet signed up with South Florida Water Management to receive emails to advise them of any applications to revise a permit that would affect the District, then they should do so. Additionally, Mr. Pires suggested that Mr. Dorrill look at the agreement the District has with Mercato as to whether or not they need to advise the District of any plans or changes they are contemplating to the permit.

Mr. Robson advised the Board and Mr. Pires that after a similar discussion several years ago, Johnson Engineering signed up for these notifications, and they are advised of all applications that come to the SFWMD. They will not advise the District directly of a permit application that may affect them, but they will provide notice of all applications that are made if it is requested. If something significant comes up on this issue before the November meeting, Mr. Robson will advise the Board.

Jeff Randall asked if the issue being discussed was the new construction Mercato was planning involving some town homes and other residences, and was advised by the Chairman that he understood that they were going to narrow the roads and make the lots smaller to increase density.

Suzanne asked if any of the Board or staff would be attending the * meeting, The Chairman and Mr. Dorrill advised her that they typically do not, but Mr. Dorrill will be doing an evaluation to determine the impact on the impervious area, and if the Board has a concern about water management in the District, that will be addressed.

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Chairman Garofalo agreed, indicating that if Mr. Robson advised them that Mercato meets the criteria on the new survey, then the Board would not really have a say in the matter.

Jim Carter asked if this was an issue that would go before the Collier County Planning Commission, or if it was something that is not considered to be a significant impact development. Mr. Pires indicated that it is titled as being a PDI, and is scheduled to appear before the hearing examiner the following week, the 23rd at 9:00 a.m. He had not looked at the revised land development code to determine if it must go before the Board of County Commissioners.

A resident indicated that he was not sure that the Foundation even knew that this was going on, and added that he felt that members of the Foundation and/or the CDD should be involved in the process to make sure the development does not have any negative consequences.

Mr. Walker noted that the last time around they had reduced the number of units, and the costs for the District residents went up, but he was advised that this development is outside of the District.

Mr. Pires suggested that Mr. Robson get a copy of the permit application for the PDI from the County staff, and that will indicate whether there are any water management issues being addressed. Chairman Garofalo also suggested that one of the Board members at Egrets Walk should speak to the Foundation Board about having representation at this meeting.

SUPERVISORS REQUESTS

A. Meeting at Tiburon

Mr. Walker asked when the last meeting at Tiburon was held, and Mr. Dorrill felt that it was probably two years ago this fall. The turnover has occurred, and it is a good time to plan a meeting there if the Board wished to. Mrs. Dupler agreed, and felt that sometime in February would be a good time to plan for. Mr. Dorrill will coordinate the time with Mrs. Dupler.

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B. Handout from Mr. Pires

At this point Mr. Pires handed out some reference information on the changes the Legislature has adopted on the various changes to dependent and independent Districts, which the District is the latter. The most pertinent information regards information that must appear on the website, and must be in place by October 1st of 2015.

Another item talks about providing addresses, email addresses and names of all the Board members on the website, and Mr. Pires indicated that it was not really clear in the Statute, and they will discuss it further in the future.

PUBLIC COMMENT

Mr. Carter advised the Board that there are some ficus trees along Airport Road that are infested with whitefly, and they are not doing well, and the problem seems to be worsening. He asked if anything could be done to isolate the worst areas and find out if there are different types of treatments, and asked the Board if they could address this. The Chairman suggested that he and Mr. Vanover and Mr. Carter will set up a meeting at this area to take a look at it and decide on a plan to address it.

ADJOURNMENT

The meeting was then adjourned at 9:45 a.m. on a MOTION by Gordon Walker and a second by Robert Smith.