

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT  
REGULAR BOARD OF SUPERVISORS MEETING  
APRIL 15, 2015**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, April 15, 2015, at 9:00 a.m. at the Pelican Marsh Foundation Building, 1504 Pelican Marsh Boulevard, Naples, Florida.

**APPEARANCES:**

Frank Garofalo, Chairman  
Robert Smith, Vice-Chairman  
Don Pomerantz, Treasurer  
Gordon Walker, Supervisor  
Sally Dupler, Supervisor

**ALSO PRESENT:**

W. Neil Dorrill, Dorrill Management Group  
Kevin Carter, Dorrill Management  
Andy Tilton, Johnson Engineering  
Anthony Pires, District Counsel  
James Calamari, Access Control

**ROLL CALL**

All members were in attendance.

Chairman Garofalo explained to those present that a new procedure would begin at this meeting, whereby anyone wishing to speak would sign the sheet and indicate what their question or comment is. The Chairman will then read it and make a determination as to whether it is on the agenda for discussion, or if it can be answered quickly. Otherwise, it will be addressed at the end of the meeting under Public Comment.

Mr. Smith felt that this procedure was different from what was discussed at the previous meeting, where comments can be made but no answers given at the beginning of the meeting.

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Chairman Garofalo felt that if a two minute comment to answer a question could be provided, perhaps that could be done. The Board briefly discussed this option, and Mr. Pires added that if it is public comment on a non-agenda item, the Board can give them two or three minutes to make their comment. The Board can then decide to answer a quick question or thank them for their comments. This would be at the Board's discretion, and there are a variety of ways the Board can answer a comment depending on what it is.

**PUBLIC COMMENT**

The Chairman indicated that the first of the five comments was an agenda item, and would be addressed at the appropriate time.

Mr. Neumann had a question about transponders and meeting minutes, but had no comment.

Mr. Gorran, Mr. Randall and Mrs. Mintz had questions about lake policy, which is on the agenda. Mr. Pomerantz suggested that the list and the agenda list the initial public comments as Non Agenda Items. The Board agreed that this would help clarify what will be heard at that time, and items 1A and 9 will be designated as Non Agenda Items.

**APPROVAL OF THE AGENDA**

Chairman Garofalo indicated that item 5C will be tabled until the following month to give the Board members an opportunity to read it as it was not included in the packet they received.

Item 5B was addressed the previous month and the Board will be asked to approve it.

As it relates to item 5E, copies of the tentative budget are available on the table for people to look at.

Mr. Boswell noted that there is a mention in the documents about construction hours, and the Chairman indicated that they will discuss that under the agenda item.

**On a MOTION by Robert Smith and a second by Gordon Walker, the agenda was then unanimously approved.**

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**APPROVAL OF MINUTES OF MARCH 18, 2015 REGULAR MEETING**

On Page 1 under Roll call, Line 4, Mr. Pires' name was spelled incorrectly.

On Page 5, in the first paragraph, the last sentence should indicate that \$66,000 was lost in the second downsizing.

On Page 6, the last paragraph, beginning on the first line, it should read "...PMCDD stormwater lakes defined as, including but not limited to, ...".

On Page 9, second paragraph, the gentleman speaking was Doug Hurlburt. Three times on Page 9 Marsh Links was incorrectly noted as Marsh Lakes.

On Page 10, the beginning of the fourth paragraph, Marsh Links should be inserted for "Lakes". Additionally on that page in the first line of Item B, the word Deputy should be inserted before the words County Manager.

On Page 11, in the first line of the fourth paragraph, the word "they" should be "the".

On Page 16, the starred name is Gary Gorran.

Also on Page 16 in the third paragraph, fourth line, the words "and Wal-Mart" should be inserted after the word "restaurants".

On Page 17 after the Motion, the words "and sent out to the residents" should be deleted.

On Page 18, the heading SUPERVISORS should read SUPERVISOR'S.

On Page 19 under Galleria Entrance, Mr. Carter's name should read Kevin Carter.

**On a MOTION by Robert Smith and a second by Sally Dupler, the minutes were then unanimously approved as amended.**

**FINANCIALS**

Mr. Dorrill noted on the revenue schedule that receipts year-to-date compared to the prior year were about \$46,000 less, primarily due to a large payment made in January of the previous year. The balance sheet through the end of February showed \$2,840,000 in cash on hand at that time against \$59,000 in payables. There are some offsets there that are due to and from

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various debt service funds. The income statement showed \$63,000 having been received in February, and year-to-date expenses are almost \$65,000 under budget.

Mr. Smith asked if some of Mr. Pires' fees were going to be move into other projects, as the budget has already been exceeded for legal fees. Mr. Dorrill stated that normally a budget amendment would be done at the time the audit is presented. The contingency fund is available, and the administrative cost center is still \$4,000 under budget year-to-date. Mr. Smith added that access control seems to be over budget as well, and Mr. Calamari indicated that some equipment needed to be purchased as well as spare parts for gate operation, among other things. The large amount of overtime is a result of a much larger than normal vacancy rate in the regular full time employee positions. Illness and emergency is also covered by full time people rather than hiring for a part time position.

**On a MOTION by Robert Smith and a second by Sally Dupler, the financial report was unanimously accepted by the Board.**

**MANAGER'S REPORT**

**A. Bike Event Request**

A request has been received for a family oriented bicycle event scheduled for the 30th of May, and a fun ride is being requested through the community, beginning at the Galleria Gate and west down to US 41 and then back. \*\*\*Laurel Sloan spoke to the Board about this event, indicating that she has coordinated other events in Pelican Marsh in the past and is very familiar with the road layout. The ride is schedule through Bay Laurel at the Galleria Gate and then westbound on Pelican Bay Boulevard, with a turn at the fountain and then back. This ride is for a nonprofit organization, and the Sheriff's Department will be asked to monitor the main intersections. 25 person heats that will also be held. Break stations will be set up with volunteer monitoring.

Pelican Bay Boulevard will not be closed down for four hours, but only for safety purposes

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when the heats are going on so the bicyclists can safely ride through the intersections. The event will take place on a Saturday morning when there is less traffic, between 9:00 a.m. and 12 noon. 400 entries are anticipated, and the racers will be staggered in groups four to five minutes apart, which will allow traffic to circulate. Mr. Walker suggested that there could be an overlap of bicyclists when the very slow ones people with the very fast ones in the next group out, and Ms. Sloan indicated that it is possible that could happen. She added that the race should be completed in two hours.

The Board was asked for one day to set up before the race, and roughly 40 signs will be placed up and down the Boulevard. Mr. Pires indicated that she would be required to obtain a temporary event license from the County.

Mr. Vanover has participated in these events and did not think that the race would be a problem, indicating that the Sheriff's Department does a very good job with traffic control in these events.

Mr. Calamari noted that the difference between this event and the Pelican Marsh Day event was just a parade and the road was re-opened within a short period of time. He expressed concern as well that many of these people will not be residents, and law enforcement will have to make sure they don't stray off the appointed roadway.

Mr. Gorran asked if there would be bystanders in watching the ride and Ms. Sloan indicated that she would not allow that, at the very most she would allow people in on Galleria Drive.

When asked why she wanted to have this event at Pelican Marsh, Ms. Sloan indicated that she liked Pelican Marsh, it was safe, shady and the perfect place for a family bike event.

Mr. Randall from Watercrest asked if the organization was going to provide insurance, and she assured him that they would. Each rider will also sign a waiver.

Eddy \*\*\* asked if there was some benefit for Pelican Marsh and the Chairman felt it would be public relations. There are two beneficiaries from the event, one in Collier County and the other a national company that organizes these events all over the country.

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The Chairman indicated that he wanted to support this event, but needed a realistic time frame in order to make a decision. Mr. Calamari felt that bicyclists would be able to move at a faster pace than runners, and running races usually wrap up well within a two hour timeframe. Mr. Vanover felt that the idea of staggering the different groups by five minutes or so was a good one, and it would be easier for the Sheriff's office to handle traffic.

Collier County Sheriff's will have to be hired for four hours, and this is the time that Ms. \*\*\* is asking for the entire event.

Many residents offered suggestions on how to handle the bicycle race with cars on the road, as well as closing the roadway completely for a specific amount of hours.

After the Board took public input on it and discussed it, **a MOTION was made by Robert Smith that the request be turned down due to the safety factors as well as the inconvenience to the residents of Pelican Marsh. The Motion was seconded by Mr. Pomerantz and failed on a vote of two to three.**

Mr. Pires expressed his concern that for an event of this type a temporary event permit is needed for it. All the questions that the Board is asking is the type of information that would be provided in the permit including the hours of operation, safety and the impact of the event among many other things that the Board does not have in front of them, and therefore cannot make a completely informed decision on.

Chairman Garofalo indicated that he would like to support this event, but he has concerns about cars and bicycle riders in these kinds of numbers sharing the roadway as well as the number of hours the race could possibly take. Ms. Sloan indicated that she would be willing to make it a smaller event and work within the time parameters noted by the Chairman for a two hour race. She will definitely make sure that insurance is in place.

**A MOTION was then made by Gordon Walker and seconded by Sally Dupler to approve the event. The Motion passed three to two.**

Mr. Pires indicated that the Chairman would be required to sign a document indicating that he

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approves of the parameters of the activity, and was concerned that the Board did not have all the information before them as to what the parameters are. Ms. \*\*\* indicated that she could not get the permit from the County until she had the permission she was seeking today, and now that she has it she can get that information for the Board. She added that she would like the latitude to change the date of the event if she could not get enough participation by May 30. The Board requested that she come back and advise the Board of any new date so it could be approved if a change becomes necessary.

Mr. Pires suggested that The Board, after review and revision by the District manager and District counsel, authorize the Chairman to execute the agreement regarding the use of District facilities in substantially the form as included in the agenda packet, subject to any additional revisions and modifications. Additionally, the event organizer must provide a level of detail.

**Mr. Walker then made the MOTION to include the wording by Mr. Pires as stated immediately above, which was seconded by Sally Dupler and passed four to one with Mr. Smith voting against it.**

Mr. Dorrill indicated that staff will move forward with the preparation of the agreement for the Board's review.

B Update on Suggested Policy regarding Recreational Use of PMCDD lakes

Chairman Garofalo stated that he hoped to pass the policy as drafted and presented to the Board today as a great deal of time is being spent on this issue. Three requests for changes were submitted to Mr. Pires, and the Chairman reminded the Board that the public should not communicate with Mr. Pires on these issues, but with Mr. Dorrill or himself unless they wish to pay for Mr. Pires' time themselves.

While it is difficult to please everyone, The Chairman felt that the draft represented the best interests of the community, and he would like to finalize it today one way or the other.

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Chairman Garofalo then asked the Board if there were any changes in the draft that they would like to see. The Chairman, Mr. Vanover, Mr. Dorrill and Mr. Pires worked on this Draft 321, although Mr. Pires clarified that he had not seen this version before it was inserted in the agenda packet. His concern was with the phrase “common grounds” which appears in the draft three times, and made some suggested changes in that regard.

The Board then realized that they did not have the correct revision, and the document that was in the agenda packet titled Recreational use of the PMCDD Stormwater Lakes-321-15 is not being considered. The correct version will be referred to as Draft 4-15.

**Robert Smith then moved to accept Draft 4-15. The Motion was seconded by Gordon Walker.**

Mr. Randall from Watercrest felt that the new draft was too complicated, and noted that three individuals submitted shorter drafts that were much clearer, and he asked the Board to consider his draft. The Chairman indicated that his understanding in reading these drafts was that there would be no fishing from CDD properties, and he is against that.

Mr. Bob Call indicated that his version does allow fishing, and contains two simple paragraphs, that he read into the record. Basically it permits fishing in all non-residential building areas. A discussion was held among the residents and the Board members as to what should be stricken from the draft under consideration and what should be inserted. The main concern that is addressed by the three versions submitted by residents is fishing behind residential property. Mr. Gorran suggested that it may be less complicated to put it in bullet point form. Mr. Call suggested that the original problem started with non-residents coming in, walking in between houses and going behind residences to fish in the lakes, and that is what they are trying to eliminate.

Mr. Smith asked if that problem was addressed in the 4-15 Draft, and the Chairman agreed that if they could stress that issue and make clearer the fact that there will be no fishing along the lakes behind private property that would be appropriate. Mr. Randall wanted to make sure

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that the term “recreational use” was used to indicate that it was not just fishing that was prohibited in these private property lakes, and the Chairman noted that those words were already in the draft.

Mr. Walker suggested that the draft should also say only CDD property owners and their tenants and guests. It was agreed that the word tenants would be inserted in the two paragraphs where it only indicates residents and guests. After a discussion on how to define and limit guests, it was agreed that it was important that guests are restricted to the owner’s property or the permitted Pelican Marsh property, and it was pointed out that the draft does make that clear already. The word “house” will be inserted before the word “guest” where applicable.

Chairman Garofalo and Mr. Vanover will go through the draft and insert the changes as discussed.

**Robert Smith then amended the MOTION on the table to include tenants’ “house guests” wherever the word “guest” appears. The Motion was seconded by Gordon Walker and unanimously approved by the Board.**

The change will be made, Mr. Pires will approve it, and it will then be published in the Foundation newsletter and an email will go out to all the residents with the change. The residents were thanked for their input.

**C. Update on Commercial Vehicle Exemption Policy**

This is the exact post order that was approved the previous month. The policy is the public item and the information contained in it is exactly what is written in those post orders.

Mr. Boswell noted that going through the existing Design Guidelines in the Foundation governing documents he found a reference to contractors advising them that construction hours are between 7:30 a.m. and 6:00 p.m., Monday through Saturday. He brought it up only

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because the new policy leaves it up to the individual association to decide when commercial vehicles can come and go. It was pointed out that a commercial vehicle would suggest a Lowe's truck, for instance, delivering something as opposed to a construction truck.

Mr. Boswell noted that he brought it up to avoid any possible conflict between the Foundation and the CDD Board, and Chairman Garofalo felt it was a good discussion for the Foundation Board to have.

**A MOTION was made by Robert Smith and seconded by Don Pomerantz to approve this public policy, and unanimously approved.**

D. Tentative 2014 Budget

The Budget has been submitted to the Board as per Florida Law, before June 15<sup>th</sup> when it will be approved for purposes of workshopping it at a subsequent meeting and then adopting it at an advertized public hearing.

The tentative budget has some very minor modifications as it is currently proposed, and after this point it can be reduced, but not increased. As submitted it represents a .8 of 1 percent increase, primarily attributable to a 2 percent cost of living increase for the various salaries that are within the cost centers.

Typically the budget is covered line by line at the May meeting, and it will then be adopted at an advertized public hearing in August.

Chairman Garofalo noted that with the original 3.4 million dollar assessment, \$66,000 was lost due to the Tiburon downsizing. To keep the budget at that amount, the assessment had to be raised for everyone by \$22 because of revenue shortfalls. Subsequent to that determination, it was noted that Whippoorwill Lane badly needed resurfacing at a cost of \$29,000, or an additional \$10 per resident for a total assessment increase of \$32.00, which is the first assessment increase in at least five years. Basically it is the same budget as last year.

Mr. Dorrill suggested that the tentative budget be accepted for today's purposes, and

then workshopped at the May meeting.

**On a MOTION by Gordon Walker and a second by Sally Dupler, the tentative budget was unanimously approved subject to the workshop in May and the advertized public hearing.**

#### **ATTORNEY'S REPORT**

##### A, Vanderbilt Beach Road fence update

Mr. Pires received a simple conveyance document agreement from the County that did not include all the points that were necessary to settle this issue. Mr. Dorrill and Mr. Casalanguida have communicated with the County and discussed with them all the additional items that need to be addressed before a settlement agreement can be signed.

At this point Mr. Pires does not have an agreement to present to the Board, but Mr. Dorrill indicated that he had advised Mr. Casalanguida that in the interest of time he would have Mr. Pires prepare some suggested language for insertion into the conveyance.

The issue of the original code enforcement action will have to be addressed and included in any settlement, and Mr. Pires has communicated with Mr. Klatzkow, the County Attorney, on this issue as well.

The Chairman summarized that there are three parts to the agreement. The first is the conveyance of the property between the fence and the road belonging to the County for maintenance. The property south to Pine Ridge belongs to the CDD, and it is being deeded to the County which they will also maintain. In exchange for that, the District will cost share 50/50 for any repairs to the fence.

Estimates were given to the County for what it costs for Mr. Vanover to maintain that area, and the County has their own contractor who is providing an estimate for that work to them. As it relates to costs for a one time repair of the fence, it was well above what the District expected, and those cost issues still must be worked out before this is entirely settled.

Mr. Gorran asked what would happen if a cost agreement cannot be reached, and Chairman

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Garofalo noted that they would then go back and relook at the original issue. Mr. Pires also indicated that one other aspect that needed to be in the agreement is that the County would maintain the lake south of that, as it is their property. The Chairman noted that this issue was never in any discussions, but Mr. Pires felt it needed to be addressed as the District no longer owns it.

In response to a question by a resident, Mr. Dorrill indicated that they do want to transfer the lake along with the property, and he had checked with Mr. Robson and Mr. Tilton was present today and would address the issue. The lake will be investigated to determine if it is in any way associated with the drainage basin that would affect residential or golf course properties.

Chairman Garofalo felt that this agreement was not by any means completed yet, as there are now other issues.

Andy Tilton from Johnson Engineering indicated that they had taken a look at the drainage with regard to what goes into that stormwater pond south of the road. There is nothing from the community residential area that go into it, but there are two basins off of the roadway where water does go in there and then connects with the Pine Ridge canal system. If the land is going to get turned over to the County, it makes sense that everything on it gets turned over as well. Mr. Tilton does not see it as a benefit from a hydraulic stormwater view. Water does cascade into the District system, but is then directed to the canal system. He added that any algae or lake bank issues should be handled by the County.

Chairman Garofalo disagreed, and indicated that the District maintains that lake through the contract, which he does not think will be changed, and he felt that the County would then be looking for compensation to maintain that lake. Mr. Gorran suggested that a side agreement could be entered into with the County and the contractor to maintain it, and the Chairman agreed. Mr. Dorrill indicated that staff will work it out, and suggested some sort of deduct change order with the District's contractor. He did not feel that the District should pay their

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contractor to maintain that lake when the District does not own it, and the County has their own employees who spray water management areas.

Mr. Dorrill felt that it was important for Mr. Pires to craft the settlement language when the original code enforcement violation that was alleged. If the land, lake and wall that in no way benefits the residents of Pelican Marsh, can be turned over to the County, that would be the best outcome.

**ENGINEER'S REPORT**

Mr. Tilton indicated noted that he had brought some information about the fence along Victoria Park, and Mr. Dorrill advised that he had not yet had a chance to look at it, and that it would be addressed at a later time. Mr. Tilton had nothing further to report.

**SUPERVISORS' REQUESTS**

**A. Information for Residents**

Chairman Garofalo indicated that he will email a copy of what was drafted today on the fishing issue to Mr. Mintz, for some concise language to provide to the residents, and it will be back on the agenda for the following month.

**B. Request from Mr. Dorrill**

Mr. Dorrill will be out of the country during the third week of June, and he asked if the Board wished to move the meeting or have Mr. Powers attend. Mr. Garofalo indicated that whatever Mr. Dorrill worked out would be fine. The budget will be workshopped in May, and the June meeting should be relatively short.

**On a MOTION by Gordon Walker and a second by Don Pomerantz, the meeting was adjourned at 10:58 a.m.**

As there was some public comment that needed to be received, the meeting was reinstated at 10:59 a.m.

**PUBLIC COMMENT**

Mr. Neumann asked when the February meeting minutes would be available, and also wondered about the lawsuit the District was involved in which Mr. Pires advised him was dismissed with prejudice. Mr. Neumann felt that it was a shame the issue had to be handled through a lawsuit that affected all concerned. He suggested with today's technology a new system could be utilized that did not involve putting a sticker on a windshield.

The Chairman indicated that their policy is that a resident can transfer the sticker if they have the ability to do so, but it is not the District's responsibility. Their system is standardized at this point and the Chairman indicated that he was not in favor of spending money on new technology unless something is brought to them and is being used in other communities, then they would investigate it.

Mr. Neumann also indicated that he has a transponder for one of his vehicles, and the Chairman stated that if he owns the company that owns the car, he is entitled to a transponder. They do need a document that shows that Mr. Neumann is the owner of the car. The issue in this case is that the license plate was the same on all three cars, but now that has changed. Mr. Dorrill advised that this issue can be worked out on a staff level, and his ownership can be determined without it being too big of an issue.

**The meeting was then adjourned at 11:08 a.m. on a MOTION by Sally Dupler and seconded by Don Pomerantz.**