

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD OF SUPERVISORS MEETING
OCTOBER 21, 2015**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, October 21, 2015 at 9:00 a.m. at the Pelican Marsh Foundation Building, Naples, Florida.

APPEARANCES:

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

ALSO PRESENT:

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

ROLL CALL

The meeting was called to order by Chairman Garofalo, and it was noted that all supervisors as listed above were in attendance, with Robert Smith appearing via speakerphone.

On a MOTION by Gordon Walker and a second by Don Pomerantz, the Board approved Mr. Smith's appearance and full participation via speakerphone due to exceptional circumstances.

PUBLIC COMMENT

Mr. Gorran suggested that when a break-in occurs in the community the residents should be advised as a reminder to lock their doors and take other precautions. He wondered who was responsible to advise them, whether it be the CDD or the Foundation.

Chairman Garofalo noted that the Foundation does have a Security Committee, and felt that

they should be responsible for this notification. He added that it was felt that publicizing these negative events was bad for the image of the community. Mr. Gorran suggested that an email blast to the community members advising them that this does occur periodically in the Community and to remind them of safety precautions would be appropriate. An email will be drafted by Mr. Pomerantz and the staff as a “season reminder” to the residents of the importance of taking these precautions.

Mr. Newman from the Gables asked why the website is not kept up to date on posting minutes, noting that the most recent set was from June. He added that he had called the staff office several times and was advised that they would do their best to get it updated, but this has not happened. Mr. Dorrill assured him that he would address this immediately and they will be posted when the approved minutes are available.

APPROVAL OF AGENDA

On a MOTION by Gordon Walker and a second by Sally Dupler, the Agenda was unanimously approved by the Board.

APPROVAL OF MINUTES OF SEPTEMBER 16, 2015 REGULAR MEETING

On Page 3 in the second paragraph under Item A, the last sentence indicated that the “pre-post” was followed, and Mr. Walker asked for an explanation of that. Mr. Robson explained the meaning of that term, which indicates that that pre-discharge must equal post-discharge in any particular piece of land.

On Page 5, the second on the first motion should be Robert Smith.

On Page 6, in the second line Pelican Bay should read Pelican Marsh.

On Page 7, the date of the next meeting should read October 21.

With those corrections, the minutes were unanimously approved on a MOTION by Gordon Walker and a second by Sally Dupler.

FINANCIALS

The 11th month, August 31 financials showed \$1,500,000 in cash with approximately \$30,000 in associated receivables against \$125,000 in payables. In response to Mr. Walker's question, Mr. Vanover indicated that equipment sales do not occur every year, but \$7,500 was realized this year from the sale of two trucks.

The income statement showed year-to-date revenues of \$3,200,000 against a budget of \$3,400,000, roughly 95 percent of the budgeted revenues. Mr. Dorrill has made an inquiry through the tax collectors office to see what if any taxes went unsold at the auction in order to reconcile the numbers. If all taxes were paid the difference would have been 4 percent, so that discrepancy is being looked into by staff. Chairman Garofalo noted that a good part of that shortfall is part of the decrease in income from WCI.

Year-to-date expenses on the operating side were \$130,000 below budget, and considering all expenditures with reserves and associated capital purchase during the year, the District is \$125,000 below budget for all categories. The yearend statement will be provided by Mr. Dorrill next month.

Chairman Garofalo noted that they are short \$71,000 in revenue because of WCI downsizing, but through August staff has saved the District money, putting them at \$122,000 below budget, which gives them a net performance of a positive \$52,000. In response to Mr. Walker's question about the rebate from the County, Mr. Dorrill indicated that it should be received within the next two weeks, and it will be treated as the prior year's revenue.

Mr. Smith stated that he was very happy with the numbers for August, and Mr. Gorran asked about the shortfall from WCI, and the Chairman indicated that two years ago there was the shortfall on Phase One at Esperanza, and this year it was on Phase Two. Next year there will not be a shortfall noted as an income adjustment has been made to the revenue to account for that shortfall.

Mr. Smith asked about the Board payment line item for August, when both he and Mr. Walker appeared via speakerphone. Mr. Dorrill will check on this and make any required adjustments. Additionally, Mr. Smith asked about the increase in postage costs, and was advised that this was for the mailing to the residents advising them of the increase in their assessments, which hopefully will not be necessary in the coming year. Mr. Vanover added that this line item covers advertising as well, and there was more advertising this year when access control employees were needed and the surplus sale was scheduled. Mr. Smith felt that if necessary, this line item should be increased.

On a MOTION by Robert Smith and a second by Gordon Walker, the financials were then unanimously accepted by the Board.

MANAGER'S REPORT

A. PMCCC Enforcing PMHOA Policies

This item was to clarify for the Board the Community's general policy and architectural standards pertaining to real estate signage on personal property or as it relates to District property within road rights-of-way. This covers everything from sale signs, open house signs, balloons and other types of things and the responsibility to have them removed at the end of the day. This is also being addressed to help distinguish what the responsibilities of these two entities are.

Mr. Walker noted that he had not heard anything about the Collier County Land Development Code being the District's responsibility to enforce, and Mr. Dorrill advised him that the District's responsibility would be to refer that issue to the appropriate division at the County. For clarification, Mr. Pires added that the District only has the authority to enforce sign issues as it relates to District property, and part of their policy states that they have to comply with the County's Land Development Code.

Chairman Garofalo asked if the CDD had the right to enforce the policies of any HOA from a

legal point of view, and was advised by Mr. Pires that what the District has the right to do as to District property is to adopt as its own policy certain activities. From the perspective of deed restrictions and covenants on private property, the District has no enforcement authority except for certain provisions of the SFWMD regarding surface water and drainage systems within those communities.

Chairman Garofalo asked once again to simplify the issue if the District had the right to enforce the private regulations of an HOA with the exception of those indicated by Mr. Pires. Mr. Pires stated that what the District has done as it relates to its regulations regarding signage relates to District property.

Chairman Garofalo then noted that some of the Foundation rules were in the District's sign policy and felt that they should be removed. Mr. Pires recalled that the Board had discussed this issue at length, and the District is not enforcing the Foundation's rules, but is adopting and enforcing a rule that is similar to the Foundation's. However, if the Board wished to modify it, they could remove from their policy those portions that are copied from the Foundation's rules and policies.

Mr. Calamari indicated that in August of 2014 the policy had been reworked, and the identical rules that the Foundation has regarding signage was adopted by the Board, which include items 1, 2, 5 and 6. Those rules have been enforced since that time, and those items have been included in the District's policy since he has been employed by Pelican Marsh, approximately ten years. The Chairman disagreed, stating that to his recollection it was the location of the signs that was discussed at that time but not the design and function of them, which was never discussed.

The Board members discussed this further and what had been agreed to the previous August, and the Chairman and Mr. Pires did not agree on what the policy of the Board is and is not. Mr. Pires did note that items 1, 2, 5 and 6 could be removed from the District's policy, but the District only enforces rules as they relates to their own property.

This item will be readdressed the following month when the policy will be relooked at as it

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relates to signage. The Board agreed that they did not want to enforce any HOA rules, but only those rules that are part of the CDD policies.

B. Whimbrel Watch Repaving Project

Mr. Dorrill asked the Board to award the small 2016 milling and resurfacing project on Whimbrel Watch in the amount of \$35,766.07 to the contractor, Ajax, who is presently in the area with his milling machine in an effort to get it done before Thanksgiving.

On a MOTION by Gordon Walker and a second by Sally Dupler, the chairman was authorized to execute the contract for the repaving which was approved unanimously by the Board.

Part of that contract includes installing temporary striping on Bay Laurel Drive in the center of the road until it is repaved, at which point permanent striping will be put down.

Mr. Pires complemented the contractor on the amount of public sector contract terms they utilize which made it much easier to review.

C. Lake Bank Restoration Project

Consistent with Board policies, there are four lake banks being done this year. The recommended contractor is American Shoreline Restoration and the schedule of work was provided to the Board, showing approximately eight-tenths of a mile of shoreline restoration. The total costs are \$123,000 for Lakes 15, 28, 29 and 42.

In response to Mr. Smith's question, Mr. Pires indicated that this is the third and last year of the contract bid for this vendor.

On a MOTION by Gordon Walker and a second by Sally Dupler, the bid was accepted and the chairman was authorized to execute the agreement on the unanimous agreement of the Board.

Chairman Garofalo noted that this project is consistent with the ten year forecast and has been budgeted.

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D. Insurance Renewal

Mr. Dorrill met recently with the District's representative of the Public Risk Insurance Agency, the credit union for public entities that the District uses. The property insurance rates have come down substantially, but a small increase of \$284 was noted on the general liability associated costs as well as \$300 on public officials' liability and employment practices. Overall there was a \$1,800 decrease in premiums considering the six different coverages. This new policy went into effect on October 1.

In response to Mr. Walker's question, Mr. Vanover indicated that seven vehicles are covered under this policy.

E. Chemical/Pine Straw/Mulch Contracts

Pelican Marsh does a joint, sealed bid with the Lely CDD for the various fertilizers, chemicals and associated supplies.

On a MOTION by Robert Smith and a second by Gordon Walker, the Board unanimously approved the award of the combined chemical and fertilizer bid for 2016.

ATTORNEY'S REPORT

A. Vanderbilt Beach Road Fence Update

This item will be addressed the following Tuesday as it has been placed on the Collier County Commission consent agenda with a request for the BCC Board to approve the settlement agreement between the Pelican Marsh CDD and the County regarding the Vanderbilt Beach fence and wall. The District will convey the property south of the wall to Collier County, the District and the County will split the cost of repairing the existing walls, and then the District will convey that land to Collier County at which point the County will be liable and responsible for all activities involving the landscaping and maintenance of the wall, fence and irrigation.

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The County, when appropriate, will apply to South Florida Water Management in order to be a co-permittee to the extent they need to be, and the code enforcement cases will go away and the District will be forever free from them.

Mr. Pires reminded the Board members that at the beginning of the Commission meeting any item can be pulled if requested by the County staff or the public, and it would then be discussed as a general topic. Mr. Pires will monitor the Board meeting from his office and the County Commission declines to approve the agreement, then the next steps will be taken; however, as the County staff is supportive of the agreement, Mr. Pires is hopeful that the Commission will approve it.

For clarification, Chairman Garofalo asked Mr. Pires who the original document, prepared by him and signed by the Chairman, was sent to, and was advised that it went to the County manager's office and was distributed internally and ultimately reviewed by the Budget office and then placed on the County Commission agenda for approval. If for some reason it is not approved, then there is no agreement, and the Board is back to the point of filing the necessary lawsuit to get the Court to determine whose obligation it is to maintain that concrete wall and fence, which the Board previously voted on. Chairman Garofalo suggested that the October deadline previously voted on by the Board for this agreement be extended to November, at which time a lawsuit would be filed if there is no resolution.

Mr. Sparks felt that this agreement will be a great accomplishment by the Board, staff and Mr. Pires for Pelican Marsh as they have been maintaining this piece of property at great expense with no benefits, and he was optimistic that it would be approved.

On a MOTION by Robert Smith and a second by Gordon Walker, the Board unanimously approved to extend the deadline for approval from the October meeting to the November meeting, at which time Mr. Pires will be authorized to file a lawsuit if the agreement is not approved by the Board of County Commissioners.

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Mr. Pires further suggested that Mr. Dorrill follow up with Mr. Casalanguida the following Monday, as typically the Board of County Commissioners will meet with County Manager's staff before their Board meetings for conversations about items on the agenda, and at that time the Manager's office gets an indication about how any particular commissioner may feel about an item. Mr. Dorrill indicated that he had already spoken to Mr. Casalanguida, who stated that he would call Mr. Dorrill if there appeared to be any problems with the issue.

Mr. Dorrill will be in attendance at the County Commission meeting, and Mr. Pires as previously noted will watch it live from his office, and if there is a problem he will go to the meeting and answer any questions the Commissioners may have.

B. Changes to Sheriff's Department Agreement

The Special Detail Agreement with the changes made by Mr. Pires has been agreed to by the Sheriff's Department, which included the ability of the CDD to choose the days they wished to have coverage at Pelican Marsh, and the addition of the language that indemnification excludes willful misconduct.

Mr. Pires expects to receive the signed agreement from the Sheriff's Department at any time, at which point he will give it to Mr. Dorrill for signature by the Chairman.

ENGINEER'S REPORT

Mr. Robson reported that he had done some engineering support on the transfer stormwater and legal description parcels, as well as working with Kevin Carter to make sure they had the right exhibit in preparation for that.

SUPERVISORS' REQUESTS

A. Tiburon Sales Center Site

Mrs. Dupler asked if the transfer had been finalized on this property, and was advised by the Chairman that he understood that they were waiting for WCI to prepare the paperwork and send it to the Board in order for the District to accept the transfer. Until the paperwork has been reviewed and approved and signed by the Chairman, this issue remains open.

B. Supplemental Pay

Chairman Garofalo commented once again on the amount of money staff has saved the District this year as noted in the financials. They received no supplemental pay the previous year, but this year's budget contained supplemental pay for the four managers, \$2,500 each for the two senior managers and \$1,500 each for the two junior managers. The Chairman asked the Board for authorization to distribute that money to the managers. Mr. Dorrill added that it is in the budget and has been previously discussed by the Board.

After a brief discussion, **Gordon Walker made a MOTION and Sally Dupler seconded it to release the budgeted money to the four managers. The Motion passed unanimously.**

C. County Commission Vote Effects on Residents of Pine Ridge

The Board briefly discussed this issue, and Mr. Dorrill noted that any resident of Pine Ridge who needed to know the status of the Vanderbilt Beach Road issue, including Commissioner Hiller, have been contacted.

PUBLIC COMMENT

Mr. Vanover indicated that as it relates to recreational use of lakes in the District, he had received a call from a resident about people using kayaks in a lake, and wondered if the District could enforce the no watercraft rule in this case. Mr. Pires indicated that they definitely could.

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Chairman Garofalo asked how this could be enforced, and Mr. Dorrill suggested that a good neighbor conversation could be held with this person first, and if that was not effective, a call to the Sheriff's Department would be the next move.

ADJOURNMENT

It was noted that the next meeting would be held on November 19, and **on a MOTION by Robert Smith and a second by Gordon Walker, the meeting was adjourned at 10:10 a.m.**