

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD OF SUPERVISORS MEETING
Wednesday, January 18, 2017**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, January 18, 2017 at 9:00 a.m. at the Pelican Marsh Foundation Building, Naples, Florida.

APPEARANCES:

Frank Garofalo, Chairman
Robert Smith, Vice-Chairman
Don Pomerantz, Treasurer
Gordon Walker, Assistant Secretary
Joe Diaz, Assistant Secretary

ALSO PRESENT:

W. Neil Dorrill, Dorrill Management Group, Secretary
John Vanover, Operations Manager
Tony Pires, Board Counsel
John Voss, Johnson Engineering
James Calamari, Access Control

ROLL CALL

The meeting was called to order by Chairman Garofalo, who indicated that all Board members were present. He added that their Sheriff's Deputy was also there, and he reminded the Board of an incident that took place several years ago when a resident got out of control at a meeting, and a Sheriff's Deputy had to be called. The Board now has the right to suspend a meeting if this occurs until a Sheriff's Deputy arrives to remove the resident. As there has been a gentleman who has been excited over the past couple of weeks, the Deputy was asked to be present at today's meeting. (overtalk)

Mr. Robson called earlier and indicated that he had a conflict and was unable to attend the meeting.

PUBLIC COMMENT

Brian *** advised the Board that for a good number of years he was the safety chairman for the organization dedicated to bike and pedestrian safety in the community. He taught bike and pedestrian safety to children in the schools, along with the importance of wearing helmets. He indicated that the Board sent out a letter recently advising bicyclists that they cannot drive on sidewalks, and yet it is State law that you can, with two caveats.

They are Items 9 and 10 under Code 3162065, and indicate that you may ride on sidewalks if you follow the same rules as a pedestrian, and that you must yield to pedestrians and provide an audible signal. He felt that the Board needed to reverse that opinion. Additionally, he suggested that regarding safety, the Board should also advise the residents that children under 16 are required to wear helmets, and a bike being ridden from dawn to dusk must have lights on both the front and the back and a reflector.

Additionally, people walking on the road have to be dealt with, as State law says if there is a sidewalk, pedestrians and runners must use it. This law is seldom enforced and should be. Bikers should ride with the traffic and walkers should walk facing traffic.

Chairman Garofalo indicated that John Vanover drafted the original note that set this out, and in the Chairman's experience, residents do not read long emails. He asked Mr. Vanover to reduce the email and get to the basic facts, and to refer the bicyclists to a few websites where the information is listed.

Mr. *** indicated that the children in the schools were taught to ride on the sidewalks, and to make sure they rode with traffic, with helmets, and with lights.

Chairman Garofalo noted that the email wanted to stress that bicyclists had to follow all the rules that apply to automobiles, and that includes stopping at crosswalks and looking both ways. This gentleman was thanked for his appearance and information.

APPROVAL OF THE AGENDA

Chairman Garofalo added Item 5C, Foundation Parking Lot Lights, for discussion.

Mr. Walker asked if a guard at the gate who resigned was going to be discussed, and Mr.

Calamari indicated that he resigned two minutes before his shift started with no notice. Staff thought that he had been paid, but apparently there was a slight error that has since been rectified and the man has been paid.

On a MOTION by Robert Smith and a second by Gordon Walker, the Agenda was unanimously approved as amended.

Chairman Garofalo asked that the record reflect that Mr. Voss was present from Johnson Engineering, sitting in for David Robson.

APPROVAL OF DECEMBER 21, 2016 BOARD MEETING MINUTES

On Page 2, on the fourth line from the bottom under Election of Officers, it was noted that Mr. Dorrill is the Secretary as opposed to the Assistant Secretary.

In the second line under that heading, Mr. Pires asked that the sentence read: "...that is occurs every two years with the election".

On Page 4, in the 10th line from the bottom, Mr. Smith asked if the word "ponds" should be "lakes". After a brief discussion it was agreed that either term was appropriate.

On Page 5 in the first line of the second paragraph from the bottom, the word "Chairman" should be changed to "President".

In the sixth line from the bottom on that page, a comma should be inserted after the word "account".

On Page 8, the starred speaker in the middle of the page should read "A Board member.." Two lines following that, the sentence should read: "and that is that the vehicles and bicycles on the road have the right-of-way..." Two lines after that, the word "light" should be "sign".

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On Page 9, the starred speaker in the middle of the page was Gary Gorran.

Also on that page, in the fourth line from the top, the word “for” should be “from”.

On Page 10, Mr. Jim Carter had his name misspelled three times as “Carver”.

Additionally on that page, the last line before the Adjournment, the first word should be “guests”.

The minutes were then unanimously approved on a MOTION by Gordon Walker and a second by Robert Smith as amended.

FINANCIALS

The first quarter revenue report showed total revenues through that quarter at \$2,862,000, which is within 1 percent of the prior year. At that point the District had received 87 percent of total revenues that were forecast for the year. Mr. Smith asked if there would be any payments in December, and was advised that there may be some later December payments that will be received in the first week of January.

Mr. Walker pointed out as a matter of interest that there were remittances for every month with the exception of July and September. But for 2016/1017 January has yet to be posted so it may be similar to last year. Mr. Dorrill agreed, and some of the \$139,000 in the prior year is some of what Mr. Smith alluded to, when people pay their taxes on the final day in December. The balance sheet showed \$3,500,000 in cash at the end of November, and next month the financials will show it to be slightly higher, again related to those people paying their taxes late in December. Payables at that time were \$26,000.

The income statement for the month ending November showed nothing significant. \$3,000 worth of access control transmitters were sold during November as people began to return from the North.

Mr. Smith asked about the amount of \$2,750 as the budget under courier on Page 3, which was an error and will be corrected. Mr. Walker asked why the Board of Supervisors’ fees for the

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month of September was zero, and was advised that they were paid twice in December, and it was a timing issue.

Mr. Dorrill asked Mr. Vanover to explain Parts and Minor Operating Equipment under Landscaping, presuming that some small engine items at the beginning of the fiscal year, and Mr. Vanover indicated that typically at that time minor operating equipment such as blowers and edgers are bought out of that category. The same situation existed with aerators, shown on the following page. Mr. Vanover indicated that these numbers will level out in the coming months.

Total operating expenses through the end of the first two months were \$107,000 below budget, and Mr. Dorrill noted that the December financials may be a little more meaningful for the Board. Mr. Vanover added that December was a three payroll month, and that, too, will even out on the next set of financials.

Mr. Smith asked if Access Overtime could be reduced, possibly by hiring a part time person, as they are well over budget for overtime. Mr. Calamari indicated that they had someone recently quit with no notice, and that Dennis, who works part time, has been ill and is in the hospital.

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

MANAGER'S REPORT

A . Offsite Parking Requests

A request was received to use the lime rock/power line easement owned by the District that is adjacent to Livingstone Road from the Golf Course owners at Tiburon while they rebuild the black course during the course of the early summer. Their concern is the use of the timber bridges on the golf course for heavy equipment to access some of the holes that will be rebuilt. They have installed a gate along their east property line adjacent to this power line easement, and they wish to use this small access road consisting of sand and gravel that runs up the

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property line area to bring their construction equipment onto the golf course.

Mr. Dorrill noted that for this request and the next one he will report, the Board has accommodated these things in the past. They will be required to sign Mr. Pires' standard form license agreement and indemnify the District against any incidents. A copy of their insurance certificate will be provided, and Pelican Marsh CDD will be named as an also insured on the certificate.

The second request came from the Ritz Carlton as they are currently reconstructing their parking lot. They have a number of large scale, catered events, including the Naples Winter Wine Festival, and they don't have sufficient parking to accommodate these outside events and their employees. They wish to use the parking area that the golf tournament used for their volunteers and staff, and use it for their employee parking during the times that they have these charitable catered events.

Mr. Dorrill felt that both of these seemed to be very reasonable requests, and apparently the timing for these two requests does not conflict. The license and use agreement that have been prepared by Mr. Pires for past events such as these will be used, subject to him providing that in the Board's acceptable form along with insurance and indemnification documents. These two entities will also be reimbursing Mr. Pires for his fees.

Mr. Pires indicated that in the past he has revised the template that he uses, and the conditions include the approval of the Board and Mr. Dorrill, and the payment of legal fees at the time of execution, and any engineering fees that may arise, as well as all the other provisions included in it. Mr. Pires expressed concern that they may be required to increase the level of the construction path for the golf course construction, and they may need a letter of modification from South Florida or the County's site improvement plan.

Mr. Dorrill has discussed that issue with them, and FP&L has been out there staging equipment within their utility easement for the better part of 60 days while they replace all the wooden telephone poles that run through there. Consequently some of the area has been disturbed

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during the course of this construction, and Mr. Dorrill discussed this with the new golf superintendent at Tiburon, who is very easy to work with. Mr. Dorrill advised him that if they needed to stabilize any areas, bring in gravel or something along those lines, that the District would want to coordinate a letter of permit, and that they would be responsible, working with the District engineer, to do that if it was determined to be necessary.

Mr. Smith expressed concern about bringing heavy equipment in there, but was reminded that there is quite a bit of FP&L's heavy equipment out there now. Mr. Pires expressed concern only as to Tiburon bearing any costs that may be required to stabilize that area once FP&L was done with their work. Mr. Dorrill indicated that they could include the phrase "to include any restoration costs" in the letter of permit or contract as Mr. Pires deemed appropriate.

As it relates to the Ritz Carlton, Mr. Pires asked if they would be accessing it through the golf course maintenance facility, as there can be no turning off of Vanderbilt Beach Road directly onto this property, and that will be included in the Ritz Carlton agreement also.

Mr. Pires appreciated the Ritz Carlton's urgency and will do the agreement documents as soon as possible.

Mr. Diaz indicated that this was a very important point, as there are quite a few residents who are very concerned about this. They were told by this golf course group that an area beyond the fence belonged to them, and it does not, it belongs to the CDD. Apparently they went in and chopped down the trees and have created a real problem. This area is located on the east side of the fence, and Mr. Dorrill indicated that there is a streetscape buffer that runs along the east property line, and Mr. Vanover stated that he had met with Mr. Diaz and they went out and looked at it. Apparently the group that was there before the current general manager and superintendent had an issue with the greens and the fairway getting enough sun, so they went out and cut some trees down along the fence. They fixed one problem, getting more sun on the golf course, and created a huge problem for the residents living adjacent to that fence as far as visuals and noise. Some of the trees were CDD on property and some were not, and that is

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being looked into. Mr. Diaz indicated that they removed several trees on the east side of the fence, which is CDD property. Mr. Vanover again noted that this is the group that was there prior to the present one, and they all lost their jobs.

Chairman Garofalo asked Mr. Diaz to go with him to take a look at it, and if they removed trees from CDD property that affected the residents, the current management may be required to restore the area. Mr. Diaz noted that the golf club had already stated that they were not going to do that, but Mr. Pires indicated that there could possibly be a second agreement, and they will be asked to come before the Board at the next meeting and guarantee that the area in question will be restored to provide a buffer and privacy for the residents, to be ultimately approved by the Board.

Mr. Dorrill assured Mr. Diaz that they will get Mr. Robson to go out and pictures will be taken, and the Chairman indicated that this will have to be in any agreement they wished to have with the District. Mr. Diaz has pictures to provide to the Board, both before and after. Mr. Pires asked that all the information and data on this issue be provided before the next Board meeting and before they authorize execution of the agreement by the Chairman. As the wished this agreement to in place by June to begin the work, they will need to do the restoration before that time. Mr. Smith expressed a problem with the fact that they came in and removed trees on CDD land without notice or approval, and felt that they would be liable. The Chairman suggested that they work with them first for restoration, and their request will not be approved until that is accomplished.

On a MOTION by Gordon Walker and a second by Don Pomerantz, the Ritz Carlton's request was unanimously approved, subject to them paying the associated fees and providing the necessary information for Mr. Pires to prepare the documents for signature by the Chairman. On a MOTION by Gordon Walker and a second by Don Pomerantz, the Tiburon Golf Course's request was approved pending their agreement to restore the property east of the fence and associated legal fees, with a final review to occur at the February meeting.

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Chairman Garofalo and Mr. Dorrill assured those present that their project would not be approved without the property being restored to the Board's satisfaction.

B. Annual Tiburon Meeting

As has been the Board's custom, they hold a meeting once a year at Tiburon and promote it in advance through their Master HOA. The community center room that they used in the past is available, and Mr. Dorrill suggested that they meet on February 15th, which is the normal third Wednesday of the month. The community center, two story building is between the pro shop and restaurant and the hotel, also called the Health and Fitness center. They will meet on the second floor.

On a MOTION by Gordon Walker and a second by Don Pomerantz, the Board unanimously approved the location at Tiburon for the Regular monthly meeting in February, to be held on the second floor of the Community Center.

C. Foundation Parking Lot

Chairman Garofalo indicated that he had received an email from Diana at the Foundation that the Foundation Board was changing their request, and now wish the CDD to remove five lamps and posts out of the parking lot, which they will gift to the CDD. The only requirement now is for the Foundation to establish the timing of this project, probably sometime during May or June, and Mr. Vanover felt that the project could be fit into their schedule with little or no problems.

Mr. Pires suggested that he prepare a bill of sale which can be done very quickly, and this way the District has evidence of ownership and control. Mr. Dorrill will send a letter to the Foundation to this effect, and **on a MOTION by Robert Smith and a second by Don Pomerantz, the Board unanimously approved the letter to be written by Mr. Vanover to Mr. Dorrill and Diana to approve the project as a whole, indicating that Mr. Pires will be providing a bill of sale for signature.**

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The second part of this issue is that the Foundation is putting in somewhere between 20 and 30 Dual LED lamps and lampposts. Currently and for quite some time the CDD has maintained the five lamps that currently exist in the parking lot, that are the same ones the District uses. The Foundation has requested that the District maintain these new lamps, and the Chairman indicated that he had a problem with that, and suggested some alternatives. One alternative would be to decline that request due to the number of lamps being installed. Secondly, the District can agree to maintain them, under the condition that the District does not have to provide the lamps for replacement. They could be stored by the Foundation or the CDD, and the CDD has an electrician on site twice a week, and they would only be repaired when the electrician was on site, and no extra money would be spent bringing an outside electrician in. Mr. Vanover noted that in the past the CDD has maintained those five lamps, and as they were the same lights as those used by the CDD, it was relatively easy. Now that the Foundation is moving up to 20 to 30 completely different lamps, in his opinion the CDD should not get involved. The Foundation maintains their own tennis court and courtyard lights, and they could also maintain the new lights in the parking lot.

The Chairman felt that in no way should their light parts be bought by the CDD, but he asked the Board if they wished to use CDD labor to do repairs on this many lights. Apparently the Foundation has an outside source taking care of the tennis court and courtyard lights. Ed Walsh from Terrabella asked why the Foundation should not be treated as any HOA, which does not ask the CDD to maintain their lights. He agreed that the Board should not get involved. Mr. Smith agreed, and since the Foundation has made this change they should take care of it. Chairman Garofalo then enumerated the reasons for declining, noting that there was a large increase in the number of lights with a different product, and there is the issue of the materials being available.

Mr. Randall from Watercrest asked if the lights on the tennis courts were LEDs, and a Board member indicated that he did not think so. Mr. Pomerantz asked if the gift of the five lights

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was to be considered a quid pro quo, but Mr. Vanover did not think the Board's declining to maintain the new lights will affect their giving the five old ones to the District, as they would have to pay to have them removed in any event. The District will take them and put them in their storage area.

Staff is not recommending approval on the maintenance aspect.

On a MOTION by Robert Smith and a second by Don Pomerantz, the Board unanimously recommended declining the maintenance aspect of the Foundation's offer.

ATTORNEY'S REPORT

Mr. Pires had nothing to report to the Board.

ENGINEER'S REPORT

John Voss had no comments for the Board, but agreed to ask Mr. Robson to make an inquiry through the director of agronomy if in fact any areas are going to be stabilized in this parking area under discussion, and then Mr. Dorrill indicated that they will need Johnson Engineering to help the Board to receive the letter and be reimbursed for it.

SUPERVISORS REQUESTS

A. Request for Construction Equipment on Easement

Several months ago a resident of Tiburon was approved for a lanai expansion by the Board, and he asked for approval to have some construction equipment go down the easement to get to his house. The Board agreed to permit this if the equipment was kept small and if the easement was restored back to its original state. That was agreed to, and Mr. Vanover sent him an email with the Board's decision.

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B. Transponder Issue

Chairman Garofalo noted that a while ago there was an issue with a person living in Pelican Marsh who had an issue with transponders. Basically the District's procedures say that if you are a homeowner or a registered resident you have the right to request a transponder.

Apparently there are more and more people who have partners living with them, and these partners are neither a resident nor a registered tenant, and they want transponders.

The District has been very accommodating, and if they have a Tiburon or Pelican Marsh address on their driver's license and registration, they are given a transponder, even though that is not the District's procedure.

Chairman Garofalo wanted to give the Board an alert that at the next meeting they will be given a revised procedure on transponders, to add people who have Pelican Marsh or Tiburon as their legal address on the list for transponders.

Mr. Calamari indicated that the term resident was gotten rid of a few years ago as it was confusing, so the terms owner or registered tenant are used. The piece that was missing from the paperwork was "or any individual whose permanent, legal address is within Pelican Marsh, as evidenced by a valid Florida driver's license or vehicle registration". If it is somebody who is only here part time and comes down with their girlfriend, for example, they are not entitled to a transponder because they are not a registered tenant. This only applied to someone who lives here full time and it is their legal address. By Florida law they are required to have their driver's license and registration changed within ten days for the license and 20 for the registration, showing this address as their legal address. The only change here is to amend the three sections of the rules to insert that sentence.

Chairman Garofalo clarified that if a person is a part timer and their partner has this as their legal address, they should get a transponder. Mr. Calamari agreed, and the Chairman felt that the words part time should not be used. The Board agreed. Mr. Pires will review the change and work with Mr. Calamari, and this will be readdressed at the next Board meeting.

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Mr. Pires added that it could be guests, friends and relative as well, and if that is their residence, they could have a relative stay with them. If that was the relative's legal address, there would be no problem. Chairman Garofalo felt that the specifics should be left out as far as the relationship.

Ed Moss of Terrabella indicated that he was confused, and reiterated what he understood the Board's objective to be. He was reminded that someone who wanted a transponder had to have Pelican Marsh or Tiburon as their legal residence.

Gary Newman from the Gables asked if, for instance, his mother-in-law came to live with them for 90 to 120 days, she would not be eligible for a transponder, and the Chairman indicated that if she changed her address to Pelican Marsh, and this was her legal address, she would be. If she visited, she could get a 30 day pass to be able to go in and out.

C. Alligator Influx

Mr. Vanover noted as a point of interest that there has been an influx of alligators in Tiburon, and they are being removed as quickly as possible. He understands that there are still some out there, and he asked everyone to call him if an alligator is seen so he can contact the trapper and have him come out and remove it.

Mr. Pires will update the information on posting signs about alligators and send it out to everyone, as they may want to consider posting the ponds or lakes. The Chairman indicated that with all the lakes they had there would be hundreds of signs. Mr. Pires noted as well that the trapper will not remove them unless they are a nuisance alligator, or over four feet. Then there would be the possibility of liability.

Mr. Vanover felt that it was atypical to have this many alligators, as typically they pull one out every two or three years. But there has been an influx in the past two or three months. Mr. Pires will send the memo out, and if the Board wishes to discuss it, then they can put it on the agenda.

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In response to a question from a resident, it was reported that no pythons have been seen.

ADJOURNMENT

Mr. Dorrill indicated that a special email will go out next month to remind everyone that their next meeting will be held at Tiburon. A blast email will also go out to the residents reminding them of where the meeting will be held, and the Tiburon residents will be advised as well through the Master HOA.

On a MOTION by Robert Smith and a second by Don Pomerantz, the meeting was adjourned at 10:04 a.m.