

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT  
REGULAR BOARD OF SUPERVISORS MEETING  
Wednesday, March 15, 2017**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, March 15, 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  
Tony Pires, Board Counsel  
David Johnson, 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 noted for those attending that the Public Comment at the beginning of the meeting was for people who wanted to address an item not included on the agenda. At the end of the meeting, all other public comment will be addressed.

There were no members of the public signed up to speak.

**APPROVAL OF THE AGENDA**

With the addition of Item 6C, the Tiburon landscape buffer, **on a MOTION by Gordon Walker and a second by Robert Smith, the Agenda was unanimously approved by the Board.**

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Mr. Dorrill also noted that the audit presentation would be made today, and Mr. Phillips was on route to Pelican Marsh. He was told that he can present the audit when he arrives. The draft audit was received the day before, and copies were provided to the Board. The District has a trust indenture filing obligation to file the audit with the trustee and clearing houses before March 29, which requires it be done at today's meeting.

In response to a question regarding the timing of the report this year, Mr. Dorrill indicated that the field work was done by the auditor early this year, but because the third Wednesday is earlier in the month, it necessitates that it be done on this day.

**APPROVAL OF FEBRUARY 15, 2017 BOARD MEETING MINUTES**

On Page 3 in the third paragraph under Financials, the third line should have a comma after the words "as well".

On Page 9, in the third line of the second paragraph under Golf Course Issues, the FPL easement is owned by Pelican Marsh.

On Page 10 it was noted that the speaker starting on line 2 is Mrs. Diane Powell, and should be corrected throughout the transcript.

The Club Manager noted several times on that page is Rick Rainville.

Also on Page 10 at the end of the second paragraph the word aesthetics was misspelled.

On Page 11 at the end of the seventh line, the "floating" s should be deleted.

On Page 12 both starred names should be Mrs. Powell.

On Page 13 the gentleman's name in the first line is Scott Graham.

On Page 14 the gentleman's name towards the bottom is Tim Langedir.

On Page 15 in the middle of the third paragraph, the sentence should read "...between the fence and these wells are golf course property".

In the first line of the next paragraph, the word "partial" should be "parcel".

On the last line of that page, "STP" should read "SDP".

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On Page 20 in the first line of the last paragraph, the sentence should read "... Mrs. Diaz had met with Kevin and Jeff from the Tiburon Golf Course...".

Mr. Pires asked that the following sentence be added at the end of Page 21: "With no further business to come before the Board, the meeting was adjourned at 10:30 a.m."

**On a MOTION by Robert Smith and a second by Gordon Walker, the minutes were then approved as amended.**

**FINANCIALS**

The monthly revenue report showed that during the month of February there was a \$30,000 reduction in actual revenue, which was offset the following month, and year-to-date the District has about \$42,000 less revenue.

The balance sheet showed a cash position of \$3,170,000 at the end of January against \$27,000 in payables. Total assets were \$30,500,000.

The income statement showed that \$161,000 in non ad valorem assessments was received into the general fund through January, and 90 percent of revenues have been received through the first four months of the fiscal year.

Mr. Smith asked about the cost of advertizing for \$2,800 when it is usually \$291, and Chairman Garofalo noted that it included advertising for jobs.

Mr. Dorrill noted that on the expense side on the landscaping line item as it was \$24,000 below budget and the associated payroll taxes were \$2,000 below budget, both attributable to staff vacancies. The other material item on that page was irrigation water which is up slightly, as January of this year was very dry as compared to the previous year.

With respect to full time wages in the access control cost center, year-to-date it was \$16,000 under budget, again a function of vacancies, and overtime for that line item was \$3,400 over budget year-to-date on the expense side.

Also notable was total operating expenses at the end of the first four months was about

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\$83,000 below budget, almost half of which is due to lapsed salaries.

Chairman Garofalo noted that on the balance sheet, under liabilities, referred revenue of \$82,900, he indicated that they were going to be doing Terra Bella's lake this spring, and that's where they provided us the money to pay for it, and then they will be reimbursed with the next budget, so that number will drop out.

Mr. Smith asked what the -\$2.00 was on the voluntary payroll under liabilities, and Mr. Dorrill indicated he would find out.

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

**MANAGER'S REPORT**

**A. Amending of South Florida Water Management District Permit**

With Mr. Robson's assistance, staff is in the process of doing an amendment to the water use permit. This is a clean-up permit transfer to split the permittees between the major entities that are under the Master Water Use Permit. There are four, including Pelican Marsh CDD which is responsible for the irrigation on the streetscapes and other common areas, and the three major golf courses and their consumption is on the same permit. The permit will be split between the four entities and taken out of the former name of WCI. These entities will be considered co-permittees.

Mr. Dorrill had asked if the District would continue to own and operate the former pumping facilities, which although constructed by the District, were conveyed to the County Utility Division. The District is now a wholesale customer of the County at multiple locations on the irrigation water side.

In the event of an emergency, or the County could not provide them with irrigation quality water, the way the system was designed was with the ability to pump water from some of the surrounding surface lakes into the irrigation pond used by the District. This new agreement

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will allow the District to protect its interests in the event of an emergency, and to be able to convey water from a separate source.

Chairman Garofalo commented that he originally did not understand this until through Mr. Robson's efforts he found out that across the street are two ponds, the east being used by the Pelican Marsh Golf Course, which is primarily aquifer water. The west lake is used for reclaimed water that is used by Pelican Marsh residents. There is a pipe from the golf course lake to the residents' lake, and if the effluent water level gets low, it flows from the east lake to the west lake, which means that aquifer water is coming into the District's reclaimed water, then is distributed. That factor makes the District a party to and having to sign the permit, as now the District is using aquifer water.

That morning Mr. Robson advised the Chairman that at the north end of Bay Colony there is a section that is pumping water out of District lakes for their irrigation. To keep that lake at the proper level, they refill it with aquifer water. Again, this is putting aquifer water into one of the District's lakes, which again makes the District liable for using aquifer water. This explains why the District must be a co-sponsor, as it now has an equity in the water.

Mr. Robson added that the Tiburon Golf Course irrigation system uses a lake also, and its situation is similar to that of Bay Colony. In the Water Management District's eyes, if a master stormwater lake is being used for irrigation, whoever operates the master stormwater system needs to participate in the water use permit. Chairman Garofalo indicated that this lake is located between Livingston Road and Tiburon.

**On a MOTION by Gordon Walker and a second by Robert Smith, Mr. Dorrill was unanimously authorized by the Board to sign the necessary applications for this permit.**

**B. Surplus Property Sale**

Florida law requires Mr. Dorrill to get the Board's approval to declare and dispose of surplus property, and in this particular case there is a Ford Crown Victoria with over 250,000 miles on

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it to be surplus property this year, and it will be sold at an auction, probably coordinated with the Lely CDD which has a few more pieces to auction. Mr. Pires asked Mr. Dorrill if he had an estimate value of the car, and if it was over or under \$5,000, and was advised that the value was under \$5,000. **On a MOTION by Robert Smith and a second by Gordon Walker, Mr. Dorrill was given the authority to declare the vehicle as surplus to be sold at an auction on a unanimous vote of the Board.**

C. Tiburon Landscape Buffer

Following the meeting the previous month, a few things occurred as reported by Mr. Dorrill. After that meeting Mr. Dorrill met briefly with some of the residents and gave them the names of the people they may want to contact at the County. Apparently several representatives met with the Chairman of the Planning Commission, Mr. Strain, who is also the County's Land Use hearing officer for various matters. Within their Development Order there is an obligation to have a landscape buffer along the east side of the property for the intended purpose of isolating and shielding some of the noise and visual disparity of what is now the highway. Following that, the Chairman and Mr. Vanover went to the area, as the Club on their own attempted two areas of planting which were good, but not good enough.

Mr. Diaz met with the senior members of the Club the previous day, and the Club manager called Mr. Dorrill last evening to advise him that he had met with Mr. Diaz. Mr. Dorrill advised him that he was aware of that. The Club manager noted that they are going to be doing some additional planting involving 20 five foot sable palms which will help create some visual disparity with staggered plantings. Hopefully they have done what they needed to do on the irrigation side as well. This issue will continue to be monitored.

Mr. Diaz added that he met with manager the previous day, who had advised him that he inherited this situation and had nothing to do with it, and he isn't going to do anything about it. Mr. Diaz indicated that it was a total waste of time, but then he called Mr. Diaz today in his

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car and indicated that they were going to put in some sable palms and that he would send Mr. Diaz an email. Mr. Diaz has yet to receive that, but he hopes that the manager follows through. The manager also said that he didn't care, that it was no big deal, and that the people could move over to the other side of the golf course. Mr. Diaz asked the Chairman to remember that he said he would not sign anything until this issue was resolved, and Chairman Garofalo noted that he, Mr. Vanover and Mr. Calamari went over to the area, and he indicated that there were two greens that were the worst, and two fairways.

The Chairman looked at what he thought was the worst area of all, the greens, and felt that they had done a great job on that one area, with perhaps a dozen sable palms, However, before the green, on the fairway, he felt more trees were needed as there were gaps in the trees. The Chairman did not look at the other green because he wasn't sure where it was, but he feels that the Club has made progress, but not enough. When Mr. Vanover comes back he and Chairman Garofalo will go back and check the entire area. The course is small, and the Club should spend some more money on it and finish it off, and the Chairman will hold his ground.

Mr. Smith noted that the Board did not have an obligation on this issue, but he did not understand why the Club wanted things from the District but were not willing to do anything in return to help the residents. He agreed with the Chairman that they should just sit still and let the Club finish this work on the buffer.

**D. Check from Insurance Trust**

Mr. Vanover took the initiative to apply for a grant that was available through the District's insurance company, and he got it. Basically it was for a partial reimbursement for a course Mr. Vanover took for a safety enhancement training. A woman from Sarasota came down and delivered a check for \$500 to reimburse the CDD for this, which was 50 percent of what was spent. A picture was taken which will appear in an upcoming newsletter.

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Chairman Garofalo noted that for the past few years staff has been saving tens of thousands of dollars for the District. It has not been all at once, but several \$500 bills, which is how staff is doing this. They look at every possible area where they can be more efficient, and they act on it. Chairman Garofalo thanked them for the excellent job they do.

The Chairman also reminded the Board of the agreement they have with the Ritz Carlton to use District property for parking while they redid their parking lots. They had a significant legal bill as they did not get the information to Mr. Pires until the last minute, which forced him to work on a weekend to get the documents completed. In a couple of weeks the sent a check for Mr. Pires' work for the complete amount, and the Chairman appreciated the timely manner in which it was paid.

**ATTORNEY'S REPORT**

A. Follow Up on Tiburon Buffer

Mr. Pires advised that it was his understanding that he was on hold for the preparation of any license agreement, and he will begin that work only when the Board advises him to go forward. But if they need it in May, they only have the meeting in April to achieve it, so Mr. Dorrill should advise them that if they want to use the property at Livingston, they need to be on the Board's agenda in April.

Chairman Garofalo indicated that there were two uses they wished for that area. One was to store equipment for the golf course renovation, and the second use was in the fall for the golf tournament. Mr. Calamari clarified that, stating that they wanted to use it to store their equipment and as a staging area. But the second event that will take place is not with the golf course, that is with the organization putting on the Sharp Shooter Tournament, a different entity completely. The Chairman indicated that they can put pressure on the golf course for that as well, as it is them indirectly.

Mr. Pires suggested to Mr. Dorrill that it should be verified and determined if they have begun



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to move equipment onto the property, and if so, they will be given 24 hours to remove it.

Mr. Dorrill indicated that he will confirm that, as FPL has had a big construction project there as well, and they used it for their staging area. Apparently there is a large truck in the area with a trailer full of pine straw, and Mr. Dorrill noted that they need to go. Mr. Pires suggested that an email and a hand delivered letter be sent to the golf course advising them that it needs to be moved by noon tomorrow.

Chairman Garofalo suggested that they wait until next week when Mr. Vanover is back and they can determine exactly what the plan is with the golf course. Mr. Pires stated that there is a liability concern, and if anyone is injured on the property or falls off the trailer, the District is at risk and there is no insurance in place. Additionally, the Ritz Carlton will be using the area until the end of March. Mr. Pires felt that the potential for someone to get hurt in or around that trailer during a parking event gets three people involved: the District, the Club, and the Ritz Carlton, and from a liability perspective, he suggested that they be told to remove it.

Mr. Dorrill indicated that he will address it that afternoon.

In response to the Chairman's suggestion that it be done by a phone call in which they could refer to the agreement with the Tiburon buffer, Mr. Pires felt that the cleanest way to do this would be to have them remove it immediately as there is no agreement in place. Mr. Smith agreed. Mr. Dorrill will move forward on it today.

**ENGINEER'S REPORT**

Mr. Robson indicated that the water use permit issue is the only activity he has had during the last month.

**SUPERVISORS' REQUESTS**

**A. Resident/Arm Bar Issue**

The Chairman advised the Board of an incident that occurred when a resident came to the gate

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after hours, could not get the arm bar to rise, and broke it off in order to get to the gate, which unfortunately did not open either. It is the Chairman's position that the resident should be required to pay for the damage, otherwise he will be charged. Mr. Smith agreed.

Chairman Garofalo felt that this was a foolish act and no one should damage District property without being responsible to pay for it.

Mr. Pires suggested that this sounded like criminal mischief rather than an intentional act, and if the requisite proof is there, he felt they should file a complaint with the Sheriff's Department, and they can decide whether to file or not.

Mr. Calamari indicated that they know who it was, they have him on video, and he has admitted to it. He planned to call him after the meeting, advise him that they have him on video, and what it is going to cost to repair it. If he takes care of that, then the issue is handled. Mr. Pires agreed, and added that he should be advised that they must receive the check within seven days, or legal action will be taken.

**B. Roadwork from 41 to Goodlette**

Mr. Smith expressed disappointment in the original roadwork that was done from US 41 to Goodlette Road, as it is breaking up quite a bit. Quite a few spots need to be repaired, and he wondered if the Board had any recourse to go back to them about these problems.

The Chairman reminded those present that they didn't do a few spots because of the roots coming up, but Mr. Smith noted that there were holes in the middle of the road as well.

Mr. Robson had not inspected those areas, but he has seen where the roots are coming up, and added that where the hand work takes place, you don't get the same surface appearance, and is always a little rougher. However, at this point he does not know if it is just rough surface or deterioration of the pavement.

Chairman Garofalo recalled that the pavement did look rough to him when they walked the job with the contractor, but he was advised that this surface was as per the specifications, which

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are not the same in this part of the country as they are up north. He and Mr. Robson will take a look at the areas in question along with Mr. Dorrill, and they will go from there.

C. Christmas Lights

Mr. Smith suggested that it may be time to take the Christmas lights down. The Chairman and Mr. Vanover had talked about this and checked the contract which indicated that the company comes in once to put them up, and then once again to remove them before March 31<sup>st</sup>. They also do one repair on light bulbs, but for any additional visits they charge extra. However, the lights at both Pelican Marsh and Tiburon will be gone by the end of the month.

Mr. Dorrill will look into this and suggested that the Board may wish to take another look at it during the budget workshop. It was noted as well that some people seem to enjoy the lights, while others were wondering why they were still up.

**PRESENTATION OF AUDIT**

Mr. Phillips walked the Board through the audit as of September 30, 2016, which was prepared in accordance with generally accepted auditing standards and government auditing standards as well. The process involves looking at internal controls, fraud and various transactions, and based on a variety of those procedures they determined that everything is fairly stated as of September 30, 2016 as presented in the auditing statements.

The NDA was provided by Dorrill Management and was reviewed and found to tie in appropriately with the numbers and activities. There are indications and some comments on operations in 2016 which will be seen later in the audit.

The statement of assets and liabilities at a certain point in time, September 30, 2016, was shown, and the major activity shown on this was the continuation of the bond pay down.

There was an escalation of those payments because of the prepayment that was received last year from TWC Associates Galleria, which was received in 2015 and paid out in 2016 to pay

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down debt. On September 30, 2016, the District's total assets were then approximately \$29,540,000. The cash position as of that time was \$100,382,000 which is mainly the general fund. There are a variety of different funds, including the debt service fund, and in 2016 the 1997 bonds were paid to completion.

Chairman Garofalo asked for clarification on whether the Galleria paid down some of their bond issues, and was advised that this was the case when they made a prepayment of \$1,400,000. The cash position is up because the general fund had excess revenues over expenses, and the money the District thought they were going to spend in maintenance operations did not occur as they were having a difficult time filling some vacancies, which is happening throughout Florida.

Regarding restricted assets, investment restricted for principal and interest, the amount is down substantially due to the release of the money that was used to pay down the bonds. Capital assets were \$27,900,000 the previous year and are down to \$27,300,000 due to depreciation of \$865,000. The District is spending roughly \$200,000 to \$300,000 a year in capital additions, but the depreciation has been at that 800 marker for the past several years. Liabilities showed that the accrued interest is lower as the outstanding bond is lower, and there was no Series 1997 as of the date of the audit.

The total debt and current liabilities together were shown to be down to \$8,000,000 because principal in the amount of \$3,155,000 was paid down.

In response to a question from the Chairman, Mr. Phillips referred the Board to Page 28, where the prepayment of \$1,400,000 was applied to the Series 13, and at the bottom of the page it showed the 2015 balance at \$11,250,000, which changed greatly in 2016 with the payment of Bond Series 1997 and the prepayment. Because of that, all the cash positions changed as of September 30, 2016, as that money was used to pay down debt.

Page 11 showed that the debt assets were up, mainly because debt was down.

In the middle of Page 12 there was a line called change in net assets. In 2016 there was a

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change in net assets of \$642,000, and the year before it was \$2,977,686. There were two reasons that was down, one being the \$1,400,000 that was received last year, and the \$897,000 of the assessments being charge to the lot owners for the 1977A Series.

The Fund Statement was shown, indicating the general fund and the bond series 1997A which is shown due to activity, but will go away next year. As of next year, the only outstanding bonds will be the Series 2012 and 2013. What remains is the amortization, and the debt service funds this year changed with the activity that was budgeted for.

Mr. Phillips added that the numbers projected in the 2016 budget in the debt service funds were within a 4 percent variance or less. Chairman Garofalo asked where the Tiburon Bond fell in the audit, and Mr. Dorrill indicated that it was within the Galleria 2013 Series bond.

The annual budget was looked at based on the general fund and all the debt service funds, and the expectations of what was supposed to occur happened. The budget omitted an item due to the prepayments on the 2013 Series, which was not anticipated.

The general fund is up overall, mainly because revenues exceed expenses. All the remaining liabilities remained consistent including the remaining fund balances.

Page 14 showed Revenues and Expenses on a cash basis, showing all the money coming in and going out. The assessment money was looked at and was consistent with what was budgeted. The journal fund showed a total revenue of \$3,391,000, with total expenses of \$3,209,000, with an excess of \$182,000. This is why the cash position is better, mainly due to the payroll related benefits.

Page 16 showed all the policies, and there were no changes in them.

Page 20 showed the new GATSBY requirement about the disclosed investments, and the District has for the last several years been with the First American Government Obligation, which is basically a money market account where the bond money was deposited and that the US Bank has invested. They are in compliance with the Florida Statutes, but do not generate much interest.

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Page 22 was the reconciliation, and the District does have a difference between the two different statements in this report, the one at the beginning and the one later on, which is versus the statement of net assets and statement of revenues and expenses.

Page 24 indicates that the policies of Florida Statute 218.415 were followed and they are in compliance with them.

Page 25 showed the activities of the fixed assets, showing \$206,000 of additions and the depreciation of \$106,000, which is a decline overall of capital assets.

Pages 26 and 27 showed a summary of the bonds which were already looked at.

Page 28 showed the debt activity, and the amortization thus far on principal payments was shown.

Page 29 gave the highlights of the 401K and monies that have been allotted as contributions to it. Management fees have been paid.

Page 30 showed fund balance disclosures in various categories. There was no litigation or disputed issues to bring to the Board's attention that Mr. Phillips was aware of.

He did need to get the legal letter from Mr. Pires, who indicated that he will send it via email and in writing.

Chairman Garofalo mentioned the principal balances left over, noting that except for a couple of years for the eastern part of Pelican Marsh, that that were all basically Tiburon.

Page 31 showed a two part presentation on the general fund budget and the debt service budgets combined, and the general fund is in compliance. The debt service funds is where a budget amendment will have to be done because the principal payments were anticipated to be \$1,700,000, and \$3,100,000 was actually paid due to the prepayment that was previously alluded to.

Page 32 was the author's standard requirement for internal control, and there was nothing for Mr. Phillips to report to the Board. There were no issues for disclosure about fraud, abuse, or noncompliance with laws and regulations.

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Page 34 is the new requirement from the auditor general who wants to know that the money the District has in investments complies with the Florida Statutes and in this case, it does.

Page 35 was another letter required by the Florida Auditor General which asks if there is anything they want to ask Mr. Phillips, would they disclose it to him.

**On a MOTION by Mr. Robert Smith and a second by Gordon Walker, the audit was accepted as presented, and the Budget Amendment as it pertains to the reconciliation of the debt service accounts as presented by Mr. Philips was unanimously approved.**

Mr. Dorrill thanked Mr. Phillips for his appearance today.

It was noted that Mr. Pomerantz had to leave at 9:55, and he had made Mr. Dorrill aware of that prior to the start of the meeting.

**PUBLIC COMMENT**

There was no public comment noted at this time.

**ADJOURNMENT**

Mr. Dorrill advised that a draft of the budget would be available in May. With the agreement that the April meeting would be held on the 19<sup>th</sup>, **the meeting was adjourned at 10:06 a.m. on a MOTION by Robert Smith and a second by Gordon Walker.**