

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT  
BUDGET HEARING AND  
REGULAR BOARD OF SUPERVISORS MEETING  
Wednesday, August 15, 2018**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, August 15, 2018 at 9:00 a.m. at the Pelican Marsh Foundation Building.

**APPEARANCES:** Frank Garofalo, Chairman  
Gordon Walker, Vice-Chairman  
Don Pomerantz, Treasurer  
Joe Diaz, Assistant Secretary  
Edward Walsh, Assistant Secretary (Via Speakerphone)

**ALSO PRESENT:** Neil Dorrill, Dorrill Management Group  
Mallory Clancy, Johnson Engineering  
Tony Pires, Counsel for the Board  
John Vanover, Operations Manager  
James Calamari, Access Control

**ROLL CALL**

All members of the Board were in attendance; with Mr. Walsh participating via speakerphone.

**Due to extraordinary or exceptional circumstances, Mr. Walsh was unanimously approved by the Board to participate via speakerphone at this meeting, on a MOTION by Don Pomerantz and a second by Joe Diaz.**

**PUBLIC HEARING**

Mr. Dorrill then opened the public hearing on the 2018/19 General Fund and Debt Service Budgets, He noted that the Board had previously workshopped these budgets, and provided notice via mail of the proposed increase to all resident in the District giving the rationale for the

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\$39 increase and its planned use. That involved a 2.5 percent general wage adjustment and some associated capital improvements for next year. The total budget for Fiscal year 2019 is \$3,520,990.00 for the primary general fund, which works out to \$1,201.88 per assessable unit. The total equivalent residential unit account next year is \$2,949.00.

In addition there are two capital improvements. One is material, as it will be retired next year, and as a result of that a partial assessment is being issued as the District will have about a quarter of a million dollars as a cash carry forward at the end of this fiscal year. It will offset the principal and interest payments for the coming November and the following May.

The bonds that are scheduled to be retired next year are the 2013 Series and the 2012 Series, both financed in 2000 and refinanced several years ago.

Those being retired next year will benefit the neighborhoods in Bay Colony, Augusta, Troon Lakes, Ivy Pointe and Muirfield. Chairman Garofalo pointed out that the communities that will have their last assessment this year comprise the eastern half of Pelican Marsh, with the exception of Ivy Point, which is located more towards the middle.

Mr. Dorrill then presented the two Resolutions, 2018-2 and 2018-3, which the Board will need to authorize the Chairman to execute for the purpose of transmitting the budget and the assessment roll to the property appraiser so they can be merged onto the tax bill.

Mr. Pires noted for the record that there were no public comments received.

**The Public Hearing was then closed on a MOTION by Don Pomerantz and a second by Gordon Walker.**

**Resolution 2018-2 adopting the General and Debt Service Budgets for the Pelican Marsh Community Development District for Fiscal Year 2019 and authorizing the Chairman to execute the Resolution was unanimously approved by the Board on a MOTION by Joe Diaz and a second by Don Pomerantz.**

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**Resolution 2018-3 Levying the Debt Service and Maintenance Assessment for the Pelican Marsh Community Development District for Fiscal Year 2019, in the amounts of \$3,544,090 for the General Fund Budget, and \$643,547 for the Series 2012 Debt Service for the benefitted units, and \$645,643 for the Series 2013 Bonds Debt Service Budget was unanimously approved by the Board on a MOTION by Don Pomerantz and a second by Joe Diaz.**

The Budget Hearing was then concluded, and the Board moved into the regular monthly meeting.

**PUBLIC COMMENT**

Richard \*\*\* who is new to the community, advised the Board that he walks the community quite a bit, and noted that some residents and perhaps their guests drive on Tiburon Boulevard like it was a strip at Talladega. They do not seem to notice that several residents walk along the street, particularly going over bridges inside the guard shack, and he felt that this was a dangerous situation.

The Chairman noted that this was a private road, and the Master Homeowners' Association would be the entity in charge of it. Mr., Dorrill added that his concern was a valid one, and there is an access control director at the District, and this concern will be referred to Tina \*\*\*Gerdner, the Tiburon property manager, and noted for the District's records as well.

Mr. Pires noted for the record that the portion of the road that is private and behind the gatehouse, for there to be traffic enforcement by a member of law enforcement requires that an agreement be entered into.

Mr. Calamari also noted for the record that Tiburon does have an agreement in place with the Sheriff's Department, and there are separate patrols that Tiburon pays for behind the gate.

**APPROVAL OF AGENDA**

Item 6 I was added to the Agenda for discussion regarding a letter received from the County assessing the Pelican Marsh District for storm water management. With that addition, **on a MOTION by Don Pomerantz and a second by Gordon Walker, the agenda was unanimously approved.**

**APPROVAL OF MINUTES OF JULY 2018 REGULAR BOARD MEETING**

Mr. Pires noted that on Page 7 in the second full paragraph in the last line, the word “assessable” should be “accessible”.

Additionally on Page 7, in the last two lines, the word “The” should be removed before Gateway in two spots.

On Page 8 under Permit Modification, the word “West” should be removed, and the word “needs” should be replaced with “may need”.

**With those corrections the minutes were unanimously approved on a MOTION by Gordon Walker and a second by Joe Diaz.**

**FINANCIALS**

The June 30, end of third quarter financials balance sheet showed \$1,501,000 in cash against \$61,000 in payables. The current contingency reserve has been adjusted at \$550,000, and total assets of the District are \$26,700,000, the majority of which are the hard assets in infrastructure. Total assets were at \$28,184,000 including the cash noted earlier.

The income statement showed non ad valorem assessments that were reported in June, which were proceeds from the tax collector’s auction. That put the total year-to-date revenues, net of the discounts taken, at almost 96 percent.

On the expense side, Property Appraiser fees were actually less than what was originally budgeted, for a savings of \$8,500. The professional public officials’ liability insurance premium

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was less at \$3,000 under budget. Total administrative expenses year-to-date were almost \$17,000 under budget. Year-to-date wages under landscaping as a result of vacancies due to the tough labor market and lapsed salaries was about \$34,000 under budget.

The Chairman noted that their long term roaming patrol, George, recently retired as well and a replacement is being sought. Mr. Vanover advised that he had hired a new landscape employee, so they are now down one on landscaping. The District is over budget by \$11,000 on the purchase of irrigation water due to the rate increase from the County, and over budget as well on the purchase of plant replacement, which is part of the reconstruction after the storm. Lake maintenance is slightly over budget, and the Chairman felt that more money needed to be put into the year-to-date budget on this line item. The bills come in lump sums, and the accountant tends to prorate these costs on a monthly basis, and Mr. Vanover noted that they are ahead one month as far as billing. Mr. Dorrill will make sure that this adjustment is made. The part time electrician expenses were also slightly over budget, which again Mr. Dorrill attributed to post Irma repairs.

Total operating expenses year-to-date was \$122,000 under budget, which Mr. Dorrill felt was a good reflection of controlling costs in a difficult year.

**On a MOTION by Joe Diaz and a second by Edward Walsh, the Financials were then unanimously accepted.**

Mr. Dorrill then advised the Board that the line of credit has been approved for the \$500,000 requested to be used in the event any additional unforeseen costs arise before the FEMA reimbursement arrives. It is a revolving line with a two year maturity, with an interest rate of prime plus 50 basis points, or approximately 4.7 percent in the event they draw against the line. The total commitment included closing costs and fees of \$2,500. Closing is set for August 30.

**On a MOTION by Joe Diaz and a second by Edward Walsh, the Chairman and secretary were unanimously authorized to sign and execute all documents associated with the line of credit, including any resolution that may be required.**

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Mr. Gorran from Watercrest asked about the \$2,500 closing costs and fees, and was advised that it was for the first year, and there will be a renewal charge for the following year as well. That will be confirmed with the bank.

**MANAGER'S REPORT**

**A. FEMA Update**

Mr. Dorrill advised that he had received a fully executed, 66 page grant reward agreement for the first disbursement of money for \$38,000. As soon as the check is received an email will be sent to the Board members advising them of it. Again, the money flows from the Federal Government down to the State of Florida which will actually disburse the money.

Chairman Garofalo advised that he and Mr. Vanover are developing a spread sheet of the eight different classes that they have with all of the submissions to FEMA. It will show the work that was done, how much was submitted for reimbursement, and how much is ultimately received. This will be provided to the Board in their meeting books so they can keep track of the FEMA process.

Mr. Pires asked if Mr. Dorrill needed to have anyone sign the disbursement document when it comes, and was advised that they had previously designated Mr. Dorrill to sign the grant award as the authorized agent. Mr. Pires had previously looked over the paperwork that will need to be signed by Mr. Dorrill.

**B. Planting Update**

The planting along Airport Road has been completed, and they are now working on the Vanderbilt side. They will be working inside the gate as well as the Gables and 41 on the Gables berm, and Grand Isle.

Chairman Garofalo noted that the fence at the berm and plantings on the Airport Road went well, and in a few years the trees will fill out and it will begin to look like it used to. Mr.

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Dorrill noted that the order of completion of landscaping was Airport Road, Vanderbilt Beach Road, the Gables, and Grand Isle.

C. Fence Update

Mr. Vanover felt that they were 85 to 90 percent complete on the fencing, with all the fencing having been completed from the Airport Road gate east. The fences adjacent to Mercato and Tiburon Golf Club have not yet been done. He expects them to be completed by the end of the following week, and he is very happy with the quality of the work being done.

The Chairman added that one of the FEMA payments is being held up for an actual invoice from Carter Fence. Mr. Vanover is acquiring the invoices based on fence sections, so that when they are sent to FEMA they can pay for sections of particular projects.

Mr. Pires asked if the offer by the contractor to charge labor and materials rather than a flat fee was still in place, and Mr. Vanover indicated that it was a flat fee per foot based upon a guess estimate, and after walking the fence with the Carter Fence employee a few days before, Mr. Vanover was advised that they would only be charged for what was repaired.

Mr. Pires advised that they may have to change the contract and have the Board approve a change order to do that. It is expected that the costs will be lower, and Mr. Vanover indicated that after they walked the fence earlier in the week, it was agreed that it would stay per the contract, so there are no changes that need to be made.

D. Lake Bank Restoration Summary

This project has been completed, and the costs came in as budgeted at \$169,000. The work was inspected and was excellent, and the final payment has been made to the contractor. A chart of all the lakes in Pelican Marsh and Tiburon was provided to the Board, and Chairman Garofalo and Mr. Vanover walked around all the lakes in Pelican Marsh and some in Tiburon. The chart shows which lakes have been completed, what has yet to be done, and what year

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they are scheduled to be done. N/A was noted beside lakes that did not need to be done or would not have to be done for ten years. Hopefully this can be posted on the website so a resident can check on their lake to see what its status is.

Mr. Gorran from Watercrest asked if the lakes that have been done in the past five or six years are showing any signs of deterioration. He wondered how long this restoration would last, and Chairman Garofalo indicated that the only deterioration he had seen was at Troon Lakes which was done by another contractor hired by and paid for by Troon Lakes themselves. Mr. Dorrill added that the Troon Lake bags are 17 years old, and have begun to deteriorate due to ultraviolet light. He did, however, feel that 20 years was a reasonable amount of time for this work to last. Chairman Garofalo thanked Mr. Gorran for bringing their Geotube contractor into Pelican Marsh.

Mr. Walsh asked if Troon lakes was still scheduled to be done in 2019, and was advised that this was the case. The Chairman added that those lakes selected for the coming year will be budgeted for as a capital expense. Mr. Vanover and the Chairman will update the spread sheet to include the next three years of lake bank restoration.

**E. Blue Tilapia for Tiburon Lakes**

Mr. Dorrill met with the Escada neighborhood at Tiburon, and they expressed their concerns and interest about installing littoral plantings on the north side, lake front of Escada. They were encouraged to plant, but they also expressed concern about algae. Mr. Dorrill indicated that they are exploring the possibility of using these fish, and he is watching the experiment going on in a small lake at Pelican Bay where these fish were introduced.

Mr. Dorrill added that he is getting conflicting information on whether the Florida Administrative Code allows these types of fish to be introduced into the lakes. It does work, and they are inexpensive. After further investigation as to the Administrative Code, they may possibly introduce some of these fish into a few lakes at Tiburon that have algae issues.

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The Escada residents have been told by one contractor that the Blue Tilapia are not allowed, while someone else indicated that they had a variance to use them. Until these issues are resolved, they will not move forward with the introduction of the fish.

Additionally, as littorals are not popular with everyone, the president of an association must approve their use in front of residences if the District is putting them in.

**F. FDOT/FPL US 41 Sidewalk**

The Florida DOT is getting ready to construct an eight foot concrete pathway on the east side of US 41 along with next generation LED street lighting. It is a very beneficial project that will extend all the way from Immokalee Road to Vanderbilt Beach Road. Work on the section of US 41 that abuts Pelican Marsh should start within the next 60 days. It will also accommodate bicycles. The Chairman was not completely sure when this project would start, but agreed as well that it was a worthwhile one.

**G. Audit Engagement Renewal**

The engagement letter with the Phillips, Harvey Group was due for renewal, and there are no increases in fees. Staff recommended renewal, and **on a MOTION by Gordon Walker and a second by Edward Walsh, the Board unanimously approved renewal of the contract for the coming year.**

**H. Trimmers Holiday Contract Renewal**

Trimmers Holiday Décor was due for a renewal for holiday lighting, and there was no increase in the fees. Their contract includes the main entrances on Vanderbilt, Airport Road and 41 as well as the entrance to Tiburon. Staff recommended renewal, and Chairman Garofalo indicated that the only change this year is that the lighting that was on the Washingtonian Palms that were taken down will be used on both sides of the entrance at Vanderbilt.

**On a MOTION by Richard Walsh and a second by Gordon Walker, the Board unanimously approved renewal of the contract for the coming holiday season.**

I. Stormwater Management

The County has proposed and is moving quickly towards completion of a stormwater utility charge that would appear on the individual property tax bills. They have used some assumptions in preparing their methodology and assessment role, assuming that the average residential unit in Collier County has 3,900 square feet of impervious area that contributes to drainage and water management issues.

Based on an aerial analysis of the building one resides in, the County is applying whatever the number of equivalent residential units is. This will be a new tax charge to fund the County's water management and drainage operations and capital projects. Mr. Dorrill asked the Board to authorize Mr. Pires to attend the September 6 meeting with the County on this issue.

For example, when WCI conveyed the old sales center to the District, it was converted that into a passive recreation area, which has had a 3,900 square foot impervious calculation on it. It is Mr. Dorrill's contention that since all the impervious areas have been removed, there should not be a bill for that.

Mr. Pires has also analyzed some other areas in the CDD, and suggested that a letter be sent first to see if the County would eliminate some properties from that assessment ahead of time. He agreed that they should be giving the CDDs credit for their operation of their stormwater, including the Pine Ridge Canal which is a County conveyance. There is an agreement from the 1990s between Pelican Marsh and the County to that effect. A letter will be prepared and given to the Chairman and Mr. Dorrill before it is sent.

Chairman Garofalo pointed out that there are three things that the District has or is paying for, including the original bond issue, the ongoing maintenance, and the Pine Ridge Canal. Mr. Pires noted that the District owns and operates a conservation area and they take stormwater from

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Naples Park and 41. This will all be put in the correspondence send by Mr. Pires to the County. The net ERUs the County is using is complicated and does not appear to be correct in some instances. If no adjustments are made for Pelican Marsh, Mr. Pires will attend the meeting on the 6<sup>th</sup> of September. The Board will be kept advised.

**ATTORNEY'S REPORT**

**A. ADA Lawsuits**

This item involved a blind plaintiff who was suing CDDs and other entities because their websites were not accessible to blind people. On last check, there were 102 lawsuits against private entities and governmental bodies, and in a number of those cases against CDDs there are motions to dismiss or settlement agreements pending. One CDD had their case dismissed on a stipulated dismissal.

The CDD has not entered into litigation yet, but what happens is there may not be dollars recoverable by the plaintiff, but costs and attorneys fees could be if the plaintiff prevails. If there is a settlement agreement, the costs and fees for the plaintiff would get paid, and typically there is a timeframe for remediation of the District's website in order to come into compliance.

Some CDDs are using law firms that focus and specialize in ADA compliance, and FIA insurance has negotiated a number of these cases, and with an ADA Compliance vendor to have a reduced price for CDDs. Mr. Pires added that he recently attended a webinar where that same insurance carrier is negotiating a global resolution for those CDDs.

There are other people who have sued other entities in the past on this issue, among them Winn Dixie and Target, both of whom paid enormous fees, and in the case of Target, 3.7 million dollars in fees and costs to the National Federation of the Blind as part of the class action they brought against Target. The focus needs to be to get the website in compliance with ADA requirements.

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There are costs associated with getting into and keeping in compliance, and an additional side issue would be an effort to work with the Department of Justice to come up with some workable guidelines.

Mr. Pires provided the Board with a list of what the Florida Statutes presently require to be on the District's website, and how long it has to be there. A number of Districts make their documents readily available to their constituents and the public as a whole on the website, and the cost per page of making those documents ADA compliant is \$2.95, which could become very costly.

The decision the Board will have to make is how much they wish to pare down their website. If they wish to keep it as it is, they will have to go back and modify everything that is on there, and anything in the future that goes on the website will have to be modified as well. Some insurance carriers are requiring ADA compliance on websites in order for their coverage to continue.

This is a national issue, taking place not only in Florida and not only with CDDs. A more detailed discussion will be held on this in the future, and some information can be obtained from computer firms that specialize in ADA compliance. An 18 to 24 month transition is the timeline being discussed, although in some litigated cases the defendants were given much less time to come into compliance.

The Board authorized Mr. Dorrill to put out some requests for proposals to do the work, and what should or should not be on the website in addition to the statutory requirements. In the meantime, there is a statement that should be put on the website indicating that the issue has been recognized and that the District is working on making the changes.

Mr. Gorran from Watercrest asked if there could be two separate sites and Mr. Pires noted that everything will have to be ADA accessible, based on what he has heard so far. Until the Federal Government comes up with guidelines, defense counsel has noted that there will be a wave of these lawsuits coming.

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Mr. Pires suggested that a global approach to what is on their website be taken, and decisions made as to what will be retained and what will be deleted. Recommendations from a consultant will help, and Mr. Dorrill will come back to the Board within a few months with the suggestions for them. Mr. Pires added that the 18 to 24 time frame allotted that was alluded to earlier was because the timing of the lawsuits was just after the districts had adopted their budgets, so this gave them additional time. Many Districts are going to “bare bones” websites, with just the statutory requirements being posted.

This item will be placed on next month’s agenda.

**ENGINEER’S REPORT**

Mrs. Clancy noted that she had nothing to report to the Board.

**SUPERVISORS’ REQUESTS**

**A. Resident Recommendation on Mosquito Fish**

The Chairman advised that Mr. Sparks had discussed the use of these Blue Tilapia, and the Chairman called the County and talked to the person who was in charge of the free distribution of these fish. Rachel Bale. Mrs. Bale is the project manager for the County mosquito control, and was very helpful.

The Chairman’s research advised him that these fish are found all over the world, and Mrs. Bale indicated that the fish are harvested from the canals in the County, which is why they are called native fish. These fish reproduce every two months, and eat not only mosquito larva, but other fish eggs, then the algae, and then each other. When the Chairman explained the way the water system in the District works, Mrs. Bale indicated that mosquitoes lay their eggs in stagnant water, and the District’s water system is not stagnant. Additionally, other fish such as the ones presently in the lakes eat mosquito larvae as well, and Mrs. Bale did not recommend the fish for Pelican Marsh of Tiburon, and Chairman Garofalo agreed.

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**PUBLIC COMMENT**

Jim \*\*\* from Watercrest advised the Board that the District looked great, and he thanked the Board for all their efforts. Watercrest will look even better in a few years once some of the trees mature, and the Board will probably take another look at some areas in the future.

Tony \*\*\*, the president of Tiburon, thanked everyone for all the Board and staff do for the residents, and agreed that everything looked very good. At a previous meeting he had met with Mr. Vanover about one of their lakes at Tiburon, and within a week the problem was addressed and taken care of.

**ADJOURNMENT**

The next Board meeting will be held on the September 19<sup>th</sup> and the meeting was adjourned **on a MOTION and a second at 10:15 a.m.**

