

1 **PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT**
2 **REGULAR BOARD OF SUPERVISORS MEETING**
3 **December 16, 2020**

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5 The Board of Supervisors of the Pelican Marsh Community Development District met on
6 Wednesday, December 16, 2020, at 9:00 a.m. at the Pelican Marsh Community Center, Naples,
7 Florida.

8 **APPEARANCES:** Edward Walsh, Chairman
9 Don Pomerantz, Vice-Chairman
10 Joe Diaz, Assistant Secretary
11 Tony Scire, Treasurer
12 Tim Jackoboice, Supervisor
13 **ALSO PRESENT:** Neil Dorrill, Secretary, Dorrill Management Group
14 Brent Burford, Johnson Engineering
15 Tony Pires, Board Counsel
16 John Vanover, Operations Manager
17 James Calamari, Access Control

18
19 **ROLL CALL**

20 Mr. Walsh opened the meeting, noting that all members were in attendance.

21
22 **PUBLIC COMMENT**

23 No Public comment was received at this time.

24
25 **APPROVAL OF AGENDA**

26 The Agenda was unanimously approved as presented.

27
28 **APPROVAL OF NOVEMBER MEETING MINUTES**

29 On Page 2, Lines 6 and 11, Mr. Pires’ name should be changed to Mr. Scire.

30 On Page 2 Line 19, the second was made by Don Pomerantz.

31 On Page 6, Line 25, the starred name is Steve Burkes.

32 On Page 6, Line 17, the word “computer” should be changed to :phone”.

4 **On a MOTION by Don Pomerantz and a second by Mr. Scire, the Minutes were unanimously**
5 **approved as amended.**

6
7 **FINANCIALS**

8 The first month preliminary financials were through the end of the October, and there will be
9 some adjustments as per the audit. For example, the proration of the final pay period.

10 At that time there was \$1,905,000 in cash, \$1,474,000 of that being in the emergency and cash
11 flow reserves. There was \$27,000 in payables.

12 The income statement showed that \$27,000 was received in non ad valorem assessments in
13 anticipation of the tax bills going out.

14 Landscaping costs were higher than budgeted for labor, the reason for that being the accruals
15 for the final pay period that will be done.

16 Under Roadway Services, \$22,000 was spent on the annual curb and gutter restoration project.

17 Total operating expenses were slightly over budget at the end of the first month of the fiscal
18 year, but this will adjust once the audit changes are made.

19 **On a MOTION by Joe Diaz and a second by Don Pomerantz, the Financials were unanimously**
20 **accepted by the Board.**

21

22 **MANAGER'S REPORT**

23 **A. Bid Award for Phase II Landscaping Renovations**

24 Multiple invitations were sent to firms for a bid, and while only one was received, it was
25 consistent with the architect's original estimate and the unit prices that were paid for Phase I.

26 The \$128,571.25 bid was approved by the landscape architect, and it is from the same firm that
27 did the first phase,

28 This work will go from Airport Pulling Road to the Community Center and the plantings will be
29 similar to those used in Phase I, with the exception of the Perennial Peanut. Mr. Walsh noted
30 that they anticipated the work will begin sometime around the first part of February.

4

5 Plans for Phase III are underway, which will run from the Community Center through the 41
6 exit.

7 **On a MOTION by Tony Scire and a second by Tim Jackoboice, the Board unanimously**
8 **approved the award of the bid in accordance with the landscape architect’s recommendation.**

9

10 **B. RFP for Guard Gate Renovations**

11 The final draft was given to Mr. Jackoboice, who has made out a schedule for the advertizing,
12 and the project is on schedule and is anticipated to be before the Board in late February or
13 early March. Mr. Jackoboice anticipated a short list of bidders will come before the Board in
14 February with their presentations, which is part of the two-step process with the criteria they
15 are looking for. The RFP has been approved by Mr. Pires for legal sufficiency once a few minor
16 changes were made.

17

18 **C. Road Resurfacing Project**

19 This work is part of the annual maintenance on the roadway, and Mr. Dorrill is pushing to get
20 this work done before the season starts. Mr. Vanover indicated that the contractor should be
21 on site by the middle of January. Mr. Walsh expressed his desire to see this work completed
22 before the landscaping work starts.

23

24 **D. Landscape Lighting Upgrades**

25 A spread sheet was prepared for the Board, including boring costs which will be necessary in
26 some areas. Total costs for the landscape up lighting with boring will be \$20,400, and staff is
27 recommending a contingency along with that, plus whatever permits are necessary.

28 Mr. Walsh noted that this upgrade would involve the intersections and certain other areas that
29 will be lit and improve the ambiance of Pelican Marsh.

30 Mr. Pires added that the contractor should contact the County in order to have the sewer lines

4 located ahead of time. Mr. Pires added that once the locations are made, photographs should
5 be taken.

6 Chairman Walsh then asked the Board if they would approve an amount of \$24,000, which
7 would give up to a 20 percent contingency. **On a MOTION by Tony Scire and a second by Tim**
8 **Jackoboice the Board unanimously approved \$24,000 for this project.**

9

10 **E. Minor Amendments to Access Control Policy**

11 Mr. Scire advised that he and Mr. Calamari had been working on these policies since the last
12 meeting, and they decided that any delivery, be it Uber or a car for any of the restaurants
13 making deliveries, must be on the permanent list, otherwise the resident involved will be called
14 to approve their entry. A text will still be sent in any event to the resident. No passes will be
15 provided. **On a MOTION by Tony Scire and a second by Joe Diaz , this Amendment to the**
16 **Policy was unanimously approved.**

17 As it relates to process servers, any process server is protected by Florida Statute 2011 159
18 48.031, and notification is not permitted to be given to the resident. **On a MOTION by Joe Diaz**
19 **and a second by Tim Jackoboice the Board unanimously approved this amendment.**

20 Mr. Mintz asked how quickly the notice would be sent out to residents regarding food service,
21 and Mr. Walsh explained that whoever delivers the food will have to be on the permanent list,
22 otherwise the resident will receive a call, and everyone will begin to realize the change. If
23 advance notice is given, the deliverer will be allowed in, and the resident will receive a text. No
24 pass will be given.

25

26 **ATTORNEY’S REPORT**

27 Mr. Pires’ report on the Sunshine Law will be given at the end of the meeting.

28

29 **ENGINEER’S REPORT**

30 Mr. Burford had nothing to report to the Board.

5 **SUPERVISORS' REQUESTS**

6 A. Update on Access Control Software

7 Mr. Scire advised the Board that he and Mr. Calamari have completed these Phases, and
8 Drivers' License Capture and Photo Link Systems have been added to this Phase. They are
9 waiting for one scanner for Gate 41, and anticipate that it should be in before Christmas. At
10 that point the project will be completed. The process has been working very well, and people
11 are receiving their texts on a daily basis.

12 Mr. Scire clarified that when a guest comes to the gate, they will show their license one time,
13 and are then given a pass which will be permanent as long as they stay on the list.

14 The sensitivity training process for the gate guards and the rovers is underway and Mr. Scire
15 expects it to be completed by January.
16

17 **PUBLIC COMMENT**

18 Mr. *** asked if a resident can send a pass via email to someone they are anticipating coming
19 to their home, and Mr. Calamari advised that this is not part of the current program, but he did
20 feel that this may be risky. The Board agreed.

21 Steve Burkes complemented the Board on the planned training program to be offered to the
22 guards and the rovers, which will upgrade the image of the community, within it and outside of
23 it. Mr. Scire then thanked Mr. Burkes for all the helpful input they have received from him on
24 this topic.

25 Bill Hanson agreed that this training was necessary in many regards, including tightening
26 accessibility at the gate.
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28 **SUNSHINE LAW PRESENTATION**

29 Mr. Pires advised that this was a good course to offer once a year, as the law changes, and
30 governmental bodies should be kept updated on Sunshine matters.

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5 A slide presentation was given, and Mr. Pires urged those present to call him any time a
6 question arose regarding this issue.

7 This law is critically important, and provides a constitutional and statutory right of notice of and
8 access to governmental proceedings of public boards and commissions at both the state and
9 local levels.

10 The people of the State adopted the amendment to the Florida Constitution, and Mr. Pires
11 underlined the important parts for the Board regarding all meetings of a special district, which
12 Pelican Marsh is, where official acts are taken and where all public business is to be transacted.
13 They must be noticed, and the public must be allowed to attend. Any exceptions are noted in
14 the Constitution.

15 Section 286.011 makes it clear what a meeting is, and what the requirements are to notify the
16 public. Minutes must be taken in the form agreed upon, and provided in a reasonable amount
17 of time.

18 If two or more members of the same board convene to discuss some matter which will
19 foreseeably come before that board for action, the Sunshine Law then applies. To clarify, if two
20 or more members get together via text, phone, email, any other form of communication, or in
21 person, that constitutes a meeting and must be noticed and open to the public. Even if an item
22 has been addressed, it will most probably arise again in the future, and Mr. Pires urged a strict
23 adherence to the law.

24 If the Board appoints a formal committee, such as a landscape committee, they must also meet
25 the Sunshine Law requirements. If a purely fact-finding committee of residents is created by
26 the Board, they are exempt from the Sunshine Law. The Board members cannot act on a fact-
27 finding committee. Staff committees are also outside the scope. Private organizations are
28 outside the scope, unless it has been delegated as part of the authority of the governmental
29 body. The courts and the Legislature are exempted.

30 The Sunshine Law also does not apply to meetings between two different districts of the same

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5 community, as they are not on the same board, unless they have been empowered to act on
6 behalf. The courts also prohibit doing anything indirectly that you are not allowed to do
7 directly, which is known as daisy chaining. As an example, if a resident approaches a board
8 member and asks them what another board member thinks about something related to the
9 business of the board, that cannot be answered.

10 It is also important to avoid the appearance of violating the law, such as after meeting lunches
11 with other board members, even if nothing pertinent is discussed, as it can lead to the
12 appearance of wrongdoing.

13 Town hall meetings, other board meetings and that type of thing are fine to attend, but if two
14 or more members of a board attend, there cannot be any interaction.

15 Mr. Pires noted all the communication that is prohibited, including all social media, blogs, and
16 any other form of communication where there would be interaction on district issues.

17 Private discussions on district matters at intermissions cannot take place. That includes
18 inaudible discussions in those instances as well.

19 Closed door sessions to discuss pending litigation and board strategy are exempt, but this
20 meeting must be called by retained counsel and a court reporter must be present. The people
21 attending would be the board, the court reporter, the manager, such as Mr. Dorrill, and the
22 attorney or attorneys. The sessions are announced and published ahead of time and are closed
23 to the public. The transcript of the proceedings is kept sealed until such time as the litigation is
24 concluded. Security issues may also be closed to the public, and a recording must be made and
25 maintained.

26 Workshops must be open to the public, as well as meetings to discuss terminating or
27 disciplining an employee.

28 Notice must be given of a meeting's date, time and location, and the agenda must be available
29 on the district's website. An agenda is required by the statutes. Changes can be made to the
30 agenda, but carefully, and never on substantive matters, as it could appear to be avoiding the

5 Sunshine Law.

6 Facilities must be large enough so that everyone who wishes to attend is able to. No
7 discrimination is allowed. All board meetings must be in the county that the members
8 represent.

9 When a board member cannot attend a meeting, the remaining board members can agree that
10 that this person can fully participate remotely, due to exceptional circumstances.

11 Action taken outside the Sunshine illegally can be voided from the beginning, and criminal
12 penalties, which could be jail time, and fines can be imposed for this. You could also be
13 removed from office. If you must defend yourself in one of these cases, those fees cannot be
14 paid by the governmental body that someone is a member of.

15 Examples were given of violations that were in the papers, and Mr. Pires asked the Board once
16 again to contact him with any questions on this. The Board members of the Pelican Marsh CDD
17 are public officials. Violations of the Sunshine Law are misdemeanors. HOAs are exempt,
18 unless they have been delegated by an authority of a governmental body.

19 There was nothing further noted to come before the Board.
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21 **ADJOURNMENT**

22 On a MOTION by *** and a second by Tony Scire, the meeting was adjourned at 9:55 a.m.
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