

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT  
REGULAR BOARD OF SUPERVISORS MEETING  
September 17, 2014**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, September 17, 2014, at 9:00 a.m. at the Pelican Marsh Foundation Building.

**APPEARANCES:**

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

**ALSO PRESENT**

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

**ROLL CALL**

Chairman Garofalo, Mr. Walker and Mrs. Dupler were noted to be in attendance with Mr. Smith appearing via speakerphone. **Mr. Smith's appearance via speakerphone and full participation in the meeting due to exceptional circumstances was unanimously approved on a MOTION by Gordon Walker and a second by Sally Dupler.** Mr. Fitzgerald was noted as being absent.

**APPROVAL OF AGENDA**

Item 5B was changed to the renewal of the contract for the "Shoot Out" to be held at Pelican Marsh, **and with that change the Agenda was unanimously approved on a MOTION by Robert Smith and a second by Gordon Walker.**

**APPROVAL OF MINUTES OF AUGUST 20, 2014 REGULAR MEETING**

On Page 2 in the second paragraph, the word "rotary" in the second to last line should be "road way".

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Additionally on Page 2, in the last line of the first paragraph, the number should be \$8,000.

On Page 4, in the third paragraph, the second line should have a comma before the word “that” and after the word “month”.

Mr. Walker asked if WCI did indeed rush to qualify for the deduction as was noted in the next sentence, and Mr. Dorrill advised him that they did.

On Page 5, the name at the beginning of the second paragraph is Cindy Sheahan.

Additionally on Page 5, the word “vested” in the third line should be “invested”.

On Page 7 in the second paragraph, the second to last word in the fourth line down should be “he” rather than “the”.

On Page 11 in the third paragraph, the word “sits” should be “sat” in the third line down.

On Page 13, the word “build” in the second line should be “built”.

On Page 15, in the second to last line of the Motion, the word “and” between Board and Encroachment should be “an”.

Mr. Pires noted that on Page 3 in the second line of the third paragraph, the clarification should be made that “Mr. Carter” is Kevin Carter.

On Page 7 in the third line from the bottom, the word “ad” should be added before “valorem”.

On Page 11 in the first paragraph, the last line should read “transferring applications from construction to operation permits”.

At the beginning of page 12, the first word should be lower case and the second word should be “as”.

On Page 13, the last line of the second paragraph should read “out through Pelican Marsh, and the southern portion goes across to Pelican Bay”.

**With those clarifications and corrections, the Minutes were then unanimously approved on a MOTION by Gordon Walker and a second by Robert Smith.**

**FINANCIALS**

The ten month financials ending July 31<sup>st</sup> were provided to the Board members, and showed no significant change in the year-to-date revenue summary. The balance sheet showed \$1,540,000 in cash which was within the budget tolerance, against only \$4,400 in payables. Mr. Dorrill pointed out a couple of significant items on the income statement, the first being that the year-to-date non ad valorem assessments were probably closed at 96.5 percent of budget, with no further income expected. Year-to-date total revenues stand at 98.5 percent, and the last meaningful revenue will be from the Naples Daily News in the amount of \$7,500, and posted under miscellaneous revenue in the following month's statement.

Year-to-date liability insurance under administration is over budget, and Mr. Dorrill was not sure why this was the case, but he will be meeting with the accountant later in the day and will check on this item, which may be a coding error.

The total year-to-date operating expenses showed that the District remains at about \$150,000 under budget as it has been for the past several months, and Mr. Dorrill noted that this shows that Mr. Vanover has good control over his operating expenses. Mr. Dorrill also indicated that on the last page the total of everything, including the contingencies and transfers, was not shown, and he will make sure that is corrected later today as well.

Mr. Smith asked about the extra amount that was noted for the Board of Supervisors fees for the month of July, and Mr. Dorrill advised him that he had already made a note of that, and will check on it as well. Mr. Smith also noted that access control was still quite high, and Chairman Garofalo indicated that the amount was a combination of full and part time people. The part time line item is favorable by \$8,700 while the overtime is over budget by \$7,700, so this item is under budget by \$1,000.

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

**MANAGER'S REPORT**

A Ventura Fence

This item was continued from the June meeting as it pertains to the concrete panel fence and the alternative request from the Ventura HOA. Ventura was represented at the meeting by their professional manager and their HOA president.

Mr. Dorrill summarized by saying that the intent was to be able to make the necessary repairs and/or replacement, and to receive a potential credit for the value either from the salvage of the materials, and/or the cost of the chain link fence, which is consistent with the Board's policy in the past.

The Chairman asked the Board if they had any questions above and beyond what was provided in the letter from Ventura, and there being none, the Chairman asked the Ventura representatives which of the three options, which include repairing the fence, replacing the fence, or putting up a chain link fence, would they choose to be reimbursed for by \$26,400.

Mr. Smith added that if they have the fence fixed, they would have to have it completely done and in good shape before they were reimbursed. Mr. Pires concurred as the District will have to have an interest for the necessary fence easement and possible turnover to the District.

Mr. Smith added that the District should not accept the land until the old fence is taken off, and Mr. Pires indicated that part of the discussion will be if the determination is made to maintain it as a concrete fence or wall by Ventura, then there would have to be some sort of agreement as to future maintenance and repair of that wall. In order for the District to provide any funding, Mr. Pires indicated that they must have the easement and the wall.

Chairman Garofalo reiterated that the question of whether the District would choose to reimburse Ventura no matter what option they chose, after it has been completed and transferred to the District.

Gary Gorran asked for clarification of the \$26,400 number, whether that was the amount the District would have paid for the chain link fence if it had been installed originally, and the

Chairman noted that he was correct, and that it would be the same amount today. After a brief discussion, **Gordon Walker made a MOTION to accept the proposal that the District pay \$26,400 towards any of the three proposed options to Ventura once the work is completed, and under all the conditions as specified by Mr. Pires. Robert Smith seconded the Motion, which was then unanimously approved.**

Mr. Pires then stated that the necessary paperwork would be prepared between the Association and the District, and the District would obtain the necessary fence easement and a bill of sale for the wall once it was completed, and would then pay the Association the \$26,400. Chairman Garofalo then explained the different options. The first, the repair of the existing fence, would require the contractor to dispose of all the old, broken material. Options two and three would require the complete removal of the entire existing fence, which would cost Ventura approximately \$21,000. An option would be for Mr. Vanover's staff to tear down the concrete fence during the off season, and to reclaim all the salvageable material, which would be worth about \$52,000, as \$4,000 to \$5,000 a year is spent on materials to mend other District fences of the same design. This way the \$21,000 for the demolition would be saved, and the District would have a significant savings in salvageable material.

In response to Mr. Smith's question as to where this material would be stored, the Chairman indicated that Mr. Vanover will build racks up behind his building and the panels will be stored in an orderly, neat fashion.

Jeff Randall asked about the way the concrete fences were built, and the Chairman described their various components. The biggest issue appears to be the fact that when the posts fail, the other components fall and break. Some posts will have to be replaced, but the savings will still be significant.

If the Board approved this salvage plan, the off season dismantling of the fence would be figured into Ventura's overall timing plan, as it may take until January before the Ventura

residents are fully apprised of the options and then vote on them. The fence dismantling itself will take approximately two weeks.

Gary Gorran asked if it would be allowable for staff to do work on a wall they don't own, and Mr. Pires indicated that they could if it was donated to them, which would be a separate agreement with Ventura.

Mrs. Dupler expressed concern that this would be setting a precedent, and Mr. Smith noted that this same option had been offered to Watercrest, and Mr. Vanover noted that in 2005 the areas that did not have a fence were filled in by the District with chain link fences.

Mr. Smith asked if John could legally do this, and Mr. Pires indicated that a donation agreement could be drawn up.

**On a MOTION by Gordon Walker and a second by Sally Dupler, the Board unanimously approved the removal of the entire fence with salvaged sections being retained by the District, subject to an agreement to be prepared by Mr. Pires.**

The third point Chairman Garofalo addressed was the replacement of shrubbery that would be destroyed when the fence was removed. He indicated that it would cost a maximum of \$2,600 for 440 standard three-gallon plants, and Ventura would pay the additional cost if they wanted bigger plants. Mr. Smith noted that they would be well past the \$500 limit for plants, and the Chairman indicated that this is why they were voting on this unique situation, and when the entire original chain link fences were put in the District did supply all the plants. Mr. Smith was not comfortable going against the rule the Board had set in these issues, and the Chairman felt that the rule applied to a different situation than this particular one.

Gary Gorran suggested that hypothetically another neighborhood with a concrete fence could approach the Board and ask for the same amount of money to install a chain link fence around their area, and possibly not follow through to install the fence. When asked what could be done to prevent that from happening, the Chairman indicated that nothing could prevent someone from asking for that, but that he would vote against it, and most of the Board

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members agreed. Mr. Gorran asked if the decision to spend the District money on a chain link fence for a neighborhood in pelican Marsh was predicated on the fence being replaced, was that then written down somewhere. Chairman Garofalo replied that it was not.

Jeff Randall noted that the reason the Board was making this decision is part of today's minutes, so it would be memorialized.

**On a MOTION by Gordon Brown and a second by Sally Dupler, the Board approved the expenditure of \$2,600 for plantings to replace those that would be lost when the fence was removed on a vote of three to one, with Mr. Smith opposing the Motion.**

Mr. Smith explained his position, indicating that the Board had previously agreed on a \$500 limit, and in the past he was fairly sure that they had never paid for both landscaping and the fence.

Chairman Garofalo then indicated that the next question for Ventura was is the CDD going to take possession of the wall under all three options: the repair, the replacement or the chain link fence after the work was done. He personally felt that he would agree if it was a chain link fence, but if a repair was done, he would not be confident that the fence would last, and the risk would be too great. Mr. Smith agreed, and felt that if the wall is only repaired, then it would be appropriate to have the District engineer certify it before the District takes it over.

Dave Robson indicated that a permit would have to be obtained from the County to replace the wall, and the permit criteria would require that all the Collier County codes were adhered to.

**On a MOTION by Gordon Walker and a second by Sally Dupler, the Board unanimously approved Options 2 and 3, which were to completely replace the fence with a concrete fence or with a chain link fence, subject to the appropriate paperwork and agreements as prepared by Mr. Pires.**

Mr. Smith asked if the District would then have the land deeded to it where the new fence would be installed, and Mr. Pires indicated that the specific predicate for ownership of the

fence would be that the District has the requisite easement or interest by ownership of the land as well as the fence, and that the District and the Association had entered into the appropriate agreements for that position and/or the donation of the materials. Mr. Pires added that this approach the Board is taking today is an informal one to let the Association know the Board's sentiments on this matter.

The final question would be who would be responsible to pay Mr. Pires' fee in connection with the work he performed to provide the agreements between the Association and the District, and Mr. Pires indicated that there would probably be some additional fees related to title work and correspondence back and forth between the parties. The Chairman asked if Mr. Pires could provide a ball park figure on costs, but was advised by Mr. Pires that it would depend completely on what the Association decided to do, although it would not be too expensive, and probably under \$5,000. After a brief discussion, **on a MOTION by Robert Smith and a second by Gordon Walker, the Board unanimously agreed that Ventura should be responsible to pay Mr. Pires' fees.**

Jeff Randall suggested that the attorney's fees be deducted from the \$26,400 that the District indicated they would pay Ventura for a new fence, but the Chairman felt that in order to keep everything clean with the paperwork, those two amounts should be kept separate. Mr. Pires indicated that a check can be written for a certain amount and held by the District manager, and then released to Mr. Pires once the work is completed and the documents are signed.

There is a third party policy in place that states that if any third party that is part of the District wants something done that requires legal action, then they are responsible to pay for those legal bills.

The president of the Ventura HOA thanked the Board for their consideration, time and effort and for bringing a conclusion to this issue and helping them out. At the Chairman's request, Mr. Vanover will be kept advised as Ventura makes decisions on the fence.

B. Internet Access for Guest Services

This service would be a modification to the software that drives the access control system at the security gates, and backup material was provided for the Board. Essentially this would allow people to announce and authorize their visitors, vendors, or guests over the internet or their iPhone rather than calling the name in or using the existing systems. There are funds available for this in the access control cost center, and there is a onetime charge of \$2,500 and an increase in the monthly bill of \$65 which is the minimum charge and will provide 650 units with this service.

The Chairman reminded the Board that they had discussed this option a few years ago, but the cost was prohibitive at that time. He added that there will be a monthly charge for every resident who registers to use it, for a charge of 10 cents a month if 650 homes sign up, which will be paid by the District. The present system requires that your phone number can be identified, and if not, you must have a pin number. Without that, you are not recognized, and the online process is similar. The Chairman felt it would be a good service to offer the residents of Pelican Marsh, and the amount of money involved is reasonable.

Mr. Dorrill indicated that his only issue was that they get assurance from the vendor that this would not compromise any security or privacy issues. If someone wants this system, they have to register for it. Mr. Vanover added that staff had discussed having a class for the first few months to familiarize people with the way this system will work.

If the Board agrees to go forward with this service, an email blast will go out to all residents to advise them how to register, and email blasts will go out regularly to residents to remind them to use it. A resident noted that not many people know their pin number, which may be an issue.

**On a MOTION by Robert Smith and a second by Gordon Walker, the Board unanimously approved the purchase of the internet access program for a cost of \$2,500 plus \$65 monthly.**

The Chairman will work with the Staff and come up with the paperwork and the email blast information, and bring it to the Board at the October meeting.

**C. CDD Website Simplification**

For informational purposes, Mr. Dorrill advised the Board of the steps taken to simplify the District's website, and some backup material was provided to the Board showing some of the format changes. The policies are now much easier to access, and a list is provided so you can pick the policy you wish to read. An email blast will go out on this as well advising people of the changes to the website.

Mr. Pires added that the Legislature has decided that as of October 1, 2015, a certain amount of minimal information must be on special districts' websites, including the Board member's names, addresses and email addresses. More detailed information will be available later for the Board.

**D. Golf Shootout**

Mr. Dorrill gave a brief rundown to the Board of last year's event, noting that it was very well run and the committee putting it on complied with all the requirements that were part of the Board's agreement with them.

Prior to the meeting Mr. Dorrill was provided with a document outlining a road race that is part of this event, asking permission to hold it within Pelican Marsh. Mr. Dorrill noted that the District does not own a great majority of the roads, and they will also need the approval of the Tiburon Master HOA. With a modification to that document, Mr. Dorrill recommended that the tournament be permitted to go forward this year.

The access control manager explained that the document provided is only for the Pelican Marsh portion of the roadways, and that a separate document was being provide to Tiburon for their

approval. As the document does not say that it is for the Pelican Marsh roads only, Mr. Pires recommended that the form license agreement that was used last year be the document that is used this year as well, with an attached sketch showing the portion of the CDD roadway that will be covered by the license agreement. Mr. Pires noted as well that there was no event staging area mentioned in the letter as there was the previous year. Mr. Calamari indicated that this letter was strictly information about the road race, and a different letter will be generated for the tournament event itself.

Mr. Pires suggested that the roadway portion of the event can be included in the tournament license agreement as that agreement provides for insurance, permit requirements, indemnification and other attendant issues. He also noted that if the Board wished to authorize the closure and use of the roadway for the race event as well as the use of the staging area, that the Chairman be authorized to execute a revised license agreement to address all these issues.

**On a MOTION by Gordon Walker and a second by Sally Dupler, the Board unanimously authorized the preparation of the above-discussed license agreement by Mr. Pires, to be executed by Chairman Garofalo.**

#### **ATTORNEY'S REPORT**

##### **A. Non Encroachment Agreement /Ventanas**

Mr. Pires provided Mr. Caldwell with a template for a non-encroachment agreement and expects to have the document in place by the next Board meeting.

##### **B. Egrets Walk Fence**

Mr. Pires and Mr. Vanover met at the site of the concrete wall to clarify the fact that the fence along US 41 belongs to the CDD, and the concrete wall belongs to Egrets Walk. The Chairman

added that he and Mr. Vanover had checked the previous day on the repairs made to the chain link fence, which satisfied the requests made by Egrets Walk.

C. Meeting with County Staff

Mr. Pires asked if a revised meeting date had been obtained for the Chairman, himself and Mr. Dorrill to meet with the County staff and he was advised that it was locked in for October 23.

**ENGINEER'S REPORT**

A. Permit Change Meeting

Mr. Robson indicated that he, Mr. Dorrill and Mr. Carter met with South Florida Water Management to review the permit change documents discussed at the previous meeting, and specifically to address the list of declined documents that Mr. Robson had recommended the Board not accept for various reasons.

The staff at South Florida Water Management and the District staff worked through the documents and a few were able to be accepted. There are some permits that the South Florida Water Management staff will do further research on, and one will be taken off the list as it does not involve the District. The remaining permits need continued review to insure that the District will not need to provide a monitoring program for the conservation areas, that there has been a sign-off and that monitoring program has been completed, and the South Florida Water Management is handling that review. The District has been maintaining those areas over the years.

Mr. Robson brought the form for signature to the meeting, and Mr. Dorrill noted as well that both he and Mr. Robson felt the meeting went very well, and that the Board will be satisfied with the resolutions reached. He added that Mr. Robson did a very good job of going through the South Florida Water Management's records, and both Mr. Dorrill and Mr. Robson are recommending approval.

Chairman Garofalo asked how many issues still needed to be resolved, and Mr. Robson indicated that for the Water District there were 35 to 40 that were conveyance only issues with water pipes conveying water to different associations. Those responsibility issues were clarified as South Florida Water Management's responsibility to handle with the different associations, and the monitoring issue will be handled with a document from South Florida Water Management to the District indicating that no more monitoring is necessary.

**On a MOTION by Gordon Walker and a second by Robert Smith, Chairman Garofalo was unanimously authorized to execute the transfer agreements to make the pertinent documents part of the District's maintenance and operating permit.**

The Chairman then thanked Mr. Robson for the excellent job he did on closing out this issue.

#### **SUPERVISORS REQUESTS**

There were no requests from the Supervisors.

#### **PUBLIC COMMENT**

Gloria Hagopian from Ventura advised the Board that they have had a problem with flooding since 2001, with rainwater coming onto their lanai and into their pool. Over the years a number of things have been done by them as well as the Ventura HOA to try to resolve the problem, but it persists. There is a drain in Mrs. Hagopian's back yard that collects the rainwater, and from there it is routed to the sewer in the street and into two more drains before it goes into the lake. Their pool and lanai have flooded many times over the years, which requires cleaning on a regular basis as the water that backs up is dirty.

The yard has been dug up around the drain to try to improve the water flow, she has met with mangers and landscapers numerous times in an effort to solve this ongoing problem and has had plastic coated screens put on the lanai and used sandbags as well to keep the water from

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coming onto their lanai. Thousands of dollars have been spent on this problem, and this past summer \$500 was spent to have a trench dug behind their lanai and more drains put in, but the previous week they were flooded again. Usually the water in the yard is up to her knees before it suddenly starts to drain, and her landscaper suggested that a sump pump be installed at the drain with a pipe leading out to the street, and she was appearing before the Board to ask them to consider this.

Mr. Robson advised the Board that one of the design aspects of the stormwater system at Pelican Marsh is the master stormwater system lake, and the streets have a relationship with that design, and the finished floor elevation of the houses have a relationship with that design as well. Mr. Robson asked Mrs. Hagopian if when they had flooding in their back yard and pool area, was there was water standing in the street in front of their house, and she felt that there was probably not water in front. Mr. Robson noted that the design criteria was for the runoff from that neighborhood to go into the lake, which has to store that water, and rises as it does. The more rain, the more it rises, and at some point the street will have water, and basically the lake is flooding the street. The house floor elevation has got to generally be a foot higher than that, which provides the separation from the lake located at a lower level and rising to flood the street and then someone's home. All the houses were supposed to be built to meet those elevation requirements, and if there is a big step down from the house to the lanai, then the lanai is too low.

The first evidence of a problem with the lake is water in the street, and it will be close to a foot before water will enter a house. The CDD's responsibility is to manage the lake, and if the lake is not high enough to cause the flooding, then the problem is between Mrs. Hagopian's home and the lake, which is not the CDD's responsibility, but that of the HOA.

Chairman Garofalo indicated that he and Mr. Vanover had been out to Ventura to look at the problem, and in looking at the layout he noted that the street elevation is 12.4 feet above sea

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level. The elevation of Mrs. Hagopian's house slab is supposed to be 13.2, or over a foot above the street. If her lanai is less than the 12.4 level of the street, it will flood before the street does, and it is too low. The additional problem is that the drain behind Mrs. Hagopian's house is collecting water from that entire side of the neighborhood, and it was the Chairman's personal opinion that her property was not graded properly. Between Mrs. Hagopian's house and the house south of her there are two downspouts that look to be funneling water into her back yard into the drain, which cannot get the water out fast enough. An easy fix to that would be to have her landscaper put in a four inch plastic pipe onto the downspout to run the water out to the street, away from the drain in the back which is overloaded.

The Chairman added that there is, however, a major problem between the Hagopian's house and Bay Laurel Drive, where the land to the north of the house is higher by approximately two feet than the lanai, and the water flows down directly from it, so that flow on the north side needs to be diverted as well. It was the Chairman's opinion that the first thing to look at would be drainage. The water must be diverted from the Bay Laurel side of the house so it does not run towards her backyard drain, and he suggested that a swale be put in that would trap that water and conduct it out to the street.

The Chairman felt that a sump pump was a waste of time and money, as there is too much water draining into her yard for it to handle, and it must be diverted to the street.

Jeff Randall suggested that Mrs. Hagopian hire an engineer to determine if re-grading a portion of her property to take the water to the street rather than her backyard would help, as they are professionals and will be able to determine if the remedies suggested by the Chairman, while good, will solve the problem completely.

Chairman Garofalo agreed that a surveyor was needed to determine the level of the lanai, as well as the north side of the house where there is property that is much higher than the house in question. Additionally, the back yard is lower than the front of the house, and it needs to be

higher in order to drain effectively. In response to Mr. Randall's suggestion that an engineer would be the best professional to hire, the Chairman indicated that an engineer will not give you corrective action unless he or she knows the land mass.

Mr. Dorrill added that there are two types of drainage systems in this situation, the primary and the secondary, or private drainage systems. The CDD is responsible for the primary or public drainage system, and Mrs. Hagopian has a private drainage problem. He did note, however, that he would be happy to identify some local engineers and/or land surveyors that will come out and do a dimension sketch showing the low areas. He added that their HOA probably had a private drainage easement between the lots, and he also offered to make some of his staff available to help solve this private homeowner issue. Chairman Garofalo and Mr. Vanover will go to Mrs. Hagopian's home as well to talk with her and make suggestions on site.

#### **ADJOURNMENT**

**The meeting was then adjourned at 10:37 a.m. on a MOTION by Robert Smith and a second by Gordon Walker.**