

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD OF SUPERVISORS MEETING
July 20, 2016**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, July 20, 2016 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
Sally Dupler

ALSO PRESENT:

W. Neil Dorrill, Dorrill Management Group
David Robson, Johnson Engineering
Tony Pires, Board Counsel

ROLL CALL

The meeting was called to order by Chairman Garofalo, who indicated that all Board members were present with the exception of Sally Dupler.

PUBLIC COMMENT

Mr. Sparks from Grand Isle complemented Mr. Vanover and his staff on the courtesies extended by all the people on the grounds to guests and residents alike. Many visitors have remarked on it, and Mr. Sparks felt that it reflected on the CDD Board and on Mr. Vanover who had taken the time and effort to create this mindset among the employees.

Additionally, when a huge, beautiful Banyan tree recently blew down, the effort was made to

Pelican Marsh CDD – Minutes

July 20, 2016

Page 2

trim it back, right it with heavy equipment and staked it off to give it a chance to continue to grow. This type of extra effort is noticed and appreciated by the residents.

Mr. Sparks also complimented the access control staff who are polite and helpful, especially noticed when compared to many other communities in the area.

Recently a compliment was given to Pelican Marsh by the Board at Pelican Bay regarding their flower program, indicating that they wished the flowers at Pelican Bay to look like those at Pelican Marsh.

APPROVAL OF AGENDA

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

APPROVAL OF MINUTES OF JUNE 15, 2016 REGULAR MEETING

On Page 3, Mrs. Gedeon was the woman speaking at the beginning of the sixth line from the bottom.

On that same page, in the 10th line from the bottom, the “District’s lake tract” should read the “District’s easement”.

Additionally on Page 3, in the fourth line from the bottom, the word “the” before Mr. Holton should be removed.

On Page 5, the starred name at the beginning of the second paragraph is Jim Carter.

In the last paragraph before the Attorney’s Report, “Sharp Shooter” should be “Shark Shootout”.

On Page 6 in the first line of the second paragraph, the word “tries” should be “tried”.

Mr. Sparks from Grand Isle asked what the definition of a non-disturbance agreement as mentioned in the second line of Item B, and Mr. Pires explained that this is an agreement between the property owners and the District, where the District allows the encroachment

into the easement and won't disturb it unless and until it may be necessary for the District to perform its activities.

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

FINANCIALS

The seventh month ending May financials were provided to the Board, and showed \$2,219,000 in cash. Specific reserves were set aside by Board direction and those reserves are for both cash flow and the "rainy day" contingency against \$66,000 in liabilities.

The income statement showed \$14,000 in non ad valorem assessments that were received as revenue after the property tax sale, and the District is now at 96 percent of total revenues for the year.

As it relates to expenses, at the end of May the District was \$163,000 below budget, due in part to the fact that the pay periods have not yet caught up, but should by July and will even out. However, there have been a number of vacancies through the year that staff has been unable to fill, primarily in groundskeepers. Overall, if netted out, the District is still approximately \$60,000 year-to-date below budget in the general fund.

The balance sheets for some of the debt service funds show the bi-annual payments on the three series of tax exempt bonds, so three large outflows of cash will be shown for May and September going to the trustee, U.S. Trust Bank. The 1997 series A and B bonds are going to be defeased at the end of the year, which will be the first series bond paid off by Pelican Marsh. Chairman Garofalo asked what will happen to the balance of \$2,722 from the bond that was paid off in May, and was advised that the money comes back to the District, and will be booked as miscellaneous revenue in the general fund.

Mr. Smith asked about the transmitted revenue of \$50.00, and was advised that it was from a check that bounced and was returned. The individual ultimately made this amount up in cash.

Pelican Marsh CDD – Minutes

July 20, 2016

Page 4

Mr. Randall from Watercrest asked when the payoff would be on the other two bonds, and Mr. Dorrill indicated that he would provide that information the following month when the 2017 budget is adopted. Chairman Garofalo thanked the staff for their continuing excellent job managing money and employees for the District.

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

MANAGER'S REPORT

A. Terrabella Lake Update

This follow-up item related to the advance funding reimbursement agreement with Terrabella, and a copy of the final agreement with associated materials was provided to the Board. Mr. Dorrill provided a brief background of this community's request to advance their lake bank restoration project from 2018 to 2017, with funds advanced by Terrabella to the District for the work. Terrabella will be reimbursed by the District the following year when the work was normally scheduled in the budget to take place.

Terrabella wished to have this work done by May 31 of 2017, and the Chairman indicated that the Board saw no problem with that. Mr. Pires indicated that it should be in the agreement that provided Terrabella provides the money to them, they will finish by May 31. Mr. Vanover will print the version of the agreement with this addition by Mr. Pires for Chairman Garofalo to sign.

Mr. Smith asked why this was being rushed for Terrabella, and the Chairman suggested that this was a courtesy for the attorney, who wished to tie this up, and that it was not a hardship for the Board to agree to move the work up and get the contract done.

On a MOTION by Robert Smith and a second by Gordon Walker, the Board unanimously approved the changes to the agreement and the Chairman was authorized to sign the final version.

Pelican Marsh CDD – Minutes

July 20, 2016

Page 5

B. Clermont Lake 20

This item was brought before the Board to establish a lake access easement at the Clermont Condominium. The District is responsible to spray and maintain the lakes within that community, and has not had an appropriate access easement in order to get the necessary equipment in to do the work. The Board members were provided with a copy of the easement agreement and an exhibit showing the location of the lake in question.

This issue is three years old, and Mr. Pires explained that the form of the agreement that was provided is what he would recommend to the Board, and the only change would be the date, from 2013 to 2016.

Mrs. Dupler entered the meeting at this point.

Mr. Pires pointed out that on Exhibit A it says that the crosshatched area identifies the “15 foot DE and lake drainage easement.” Chairman Garofalo pointed out as well that the District will just continue to do what it has been doing for years at this lake, but now there is a legal lake access agreement.

On a MOTION by Gordon Walker and a second by Don Pomerantz, the Board unanimously approved the easement that was presented to them with the correction of the date to 2016, and authorized the recording of this document

The representative from Terrabella was present and signed the document, which was notarized by Mr. Calamari. The date changes were made and initialed as per Mr. Pires’ request, and will be recorded.

C. Pay Plan Maintenance Update

There have been a number of vacancies in groundskeepers through the first eight months of the year, and starting salary for a groundskeeper with a valid Florida Driver’s license is \$11 an hour. To address this issue, two different schedules have been prepared by staff and the proposal is to offer a one-time market rate adjustment for existing employees who have

Pelican Marsh CDD – Minutes

July 20, 2016

Page 6

completed their probationary period. The number of employees could be reduced by one person, as there are three vacancies now, and only two would be hired. One alternative would be to give a 2 percent raise across the Board, with the little extra money going to the workers. As demonstrated in the chart provided, there would be no change in the budget.

Mr. Smith suggested the previous month that the workers should be given a little more money, and a second schedule was provided that would reduce the rate for the managers by 1 percent, which would raise that of the workers to 2.7.

Put another way, the workers would receive a 2.3 percent increase and the managers would receive 2 percent, or the managers be reduced 1 percent and the workers would then get 2.7 percent. Chairman Garofalo preferred the first option where the workers would receive 2.3 percent and the managers 2 percent, and then the following year the budget will be changed to give the workers an increase by perhaps 5 percent.

Mr. Vanover spoke to a couple of other districts to determine what they pay their grounds employees. Those districts he spoke to hire at \$10 an hour, with a little more if a Florida driver's license is held; however, after 90 days, every one of their employees goes on health insurance. Another district hired at \$12 an hour for a driver's license holder, and \$11 if they did not. This district offered health insurance with a pay reduction. Mr. Vanover noted that considering all aspects, Pelican Marsh appears to be the lowest paying District of those he spoke to.

The Board members discussed the options, the fact that increased construction was taking some of the workers, and the natural attrition of two or three workers a year leaving for various reasons. Mr. Smith again noted that he would rather see the workers get the raise, as it will serve to help keep them at Pelican Marsh. In response to Mr. Sparks' question as to the ratio of staff loss on a regular basis, Mr. Vanover indicated that it was a little less than 10 percent annually, which Mr. Sparks considered very acceptable. Mr. Gorran asked if this would be a onetime payment or built into the salary structure, and was advised that it would be built

Pelican Marsh CDD – Minutes

July 20, 2016

Page 7

into the salary structure.

Mr. Dorrill advised the Board that staff's recommendation would be to go with Option A, but it was at the Board's discretion as to which option they felt was most appropriate. A third option was suggested, that the workers receive a 3.1 percent raise and the managers receive nothing, which would be considered Option C. Mr. Gorran pointed out that the focus of the discussion was the workers, and that is how the decision should be made.

After a further, brief discussion, **a MOTION was made by Gordon Walker and a second by Robert Smith to approve a 1 percent increase for the managers and a 2.7 increase for the workers, which was noted as Option B.**

Mr. Smith suggested that more money should be budgeted for access control, as the job is difficult and these employees are the face and front door of Pelican Marsh, and he felt that they needed to be upgraded. Chairman Garofalo agreed that next year the budget should include an increase for access control as well, which would translate into a \$30,000 to \$40,000 budget increase the following year.

The Motion then passed unanimously.

D. Auditor Engagement Letter with Addendum

Mr. Pires suggested one change in the engagement letter which could go in as an addendum, which is a new State Statute that requires language to be in all contracts about public records. With that, he would recommend approval.

Mr. Dorrill noted that this was the standard, annual engagement letter for their outside auditor, and the new law mentioned by Mr. Pires obligates District contractors to recognize their responsibilities to make, maintain and provide documents that are public records.

On a MOTION by Gordon Walker and a second by Robert Smith, the Board unanimously authorized the Chairman to sign the annual engagement letter with the addition of the necessary language.

ATTORNEY'S REPORT

A. Sieperda Fence Deposit Discussion

Mr. Pires prepared the encroachment and non-disturbance agreement with Mr. Sieperda of Norman Estates in Tiburon and indicated that he would pass it around to the Board members if they needed to be refreshed on this issue. A \$1,000 deposit has been received from Mr. Sieperda as well in the event the District has to remove any of the improvements.

Chairman Garofalo noted that he recently spoke to Mrs. Gedeon, and he is beginning to have a different opinion about the \$1,000 deposit. He reminded the Board of the deposit made several years ago for this same purpose, which they carry on their balance sheet as a liability. The more requests made for this type of thing, the more \$1,000 liabilities will be on the balance sheet, and he suggested that this not be done in the future, as these liabilities could continue to be carried for quite some time.

Mr. Pires indicated that from a legal perspective he would recommend keeping it, for if a resident refused to reimburse the District for work that had to be done, the District has no lien rights and would have to sue him. He added that he felt the risk of needing that money is very low. Mr. Smith suggested that those deposits could be held in one account, but the Chairman stated that they would still have to be noted separately as line items. Mr. Pires felt that this was a policy decision and was completely up to the Board. After further discussion, the Board agreed to maintain the \$1,000 deposit.

Chairman Garofalo indicated that he will sign the Sieperda agreement, and if he has not yet signed the Holton agreement, he will do that as well, **and the Board gave him their unanimous authorization to sign them both on a MOTION by Gordon Walker and a second by Sally Dupler.**

C. Hearing on Sereno Property East of Livingston

This hearing will be held before the Planning Commission the following day. From the District's

perspective, Mr. Pires did not feel that the proposed zoning would have any impact on them, but there may be some questions as it relates to the South Florida Water Management District, and after Mr. Robson's review, he and Mr. Pires agreed that they District may want to interject themselves at some point.

Mr. Robson indicated that notification of a **Corp permit is what triggered the recent activity, and caused additional review to evaluate the impact of this Corp permit, which led to the Water Management District's permit. The Water Management District's permit must be obtained before the County permit. Mr. Robson indicated that from his viewpoint it is a three step process minimally. What does concern him, however, is the fact that WCI has applied for an access road permit from South Florida Water Management using the Tiburon permit number. The residential development however, is generating a brand new number, and Mr. Robson would like to know why, as his way of tracking has missed it once that new number was generated.

Mr. Robson's concern is, unlike the direct discharge such as Mercato has, that this will be a much less direct discharge, as it goes into a conservation area, underneath Livingston Road and through the big southeast conservation area within Tiburon before it finally enters the Tiburon lake system and through pipes to go over the Airport Road weir. He recommended to the Board that he contact the South Florida Water Management District reviewer and have a discussion via email or letter, advising them that the Pelican Marsh CDD would like to be apprised of all the matters related to that review. The CDD wishes to be kept up to date, and with a new number the information remains hidden. Any impacts to the District's systems need to be determined.

Mr. Pires added that it would be appropriate for the Board to authorize Mr. Robson to interact with the developer and to contact South Florida Water Management District, and if appropriate, to send an email today to the chairman of the Planning Commission advising them that the Board members just became aware of the hearing tomorrow and that they have a

concern about the impacts on the District's water management system. Additionally, the District would like the Planning Commission to look at this project the same way they looked at Mercato and the Naples Daily News business park which were also offsite flows. The Board agreed that this should be done, and Mr. Pires felt that it was important for the Planning Commission to know this. Mr. Robson will contact them today.

Mr. Pomerantz asked if the two different numbers being discussed could have been inadvertent, and Mr. Robson felt that they would have to have a discussion with the Water Management District to make sure that the Board is able to review all of their actions in this regard. Since the new development is not part of the previous, contiguous area, and the DRI has not yet been modified, that might have looked like a standalone project to the Water Management District.

Jim Carter suggested the Board request a delay on this matter so it can obtain more information before it's reviewed, because the Planning Commission always looks at the codes and the law. But the Board of County Commissioners are the policy makers, and they will rely heavily on what comes out of that Planning Commission hearing. Mr. Pires was hesitant to ask that it be continued without knowing all of the facts, but if there are issues that arise at that hearing that will affect the Pelican Marsh CDD, the County Commission can be advised that the District found out that there was a hearing before the Planning Commission only two days prior to it happening.

Mr. Robson added that from an engineering standpoint, the Planning Commission will look at the Land Development Code to determine if the project should be allowed to go forward. From there begins the whole permit process which details how it will be allowed to go through. The District will want to address the process that would allow it once it is approved by the Planning Commission. Mr. Pires disagreed, indicating that the opportunity for leverage with the developer is at the development approval stage, by adding the property to the Pelican Marsh PUD. While Mr. Pires did not feel comfortable asking that the Planning Commission hearing be

continued and did not recommend that action to the Board, once they hear more from Mr. Robson they can determine if they need to go before the County Commission. Chairman Garofalo agreed. Mr. Pires added that in the email to Mr. Strain, they can mention that they considered asking for the hearing to be continued, but as they just found out about the hearing, they may wish to interject comments at a later point in time.

ENGINEER'S REPORT

Other than the Planning Commission meeting on Sereno, Mr. Robson had nothing further to come before the Board.

SUPERVISORS' REQUESTS

A. Changes of Hedges at Bay Colony

Mr. Smith asked who authorized the fence that went up at Bay Colony, and was advised that it was on Bay Colony property, and apparently they got permission to put up that fence from the Architectural Review Board. Mr. Smith noted that they had tall plants on their side of the fence, but very short ones on the roadway side, which would take a long time to grow and hide the fence itself. Additionally, Mr. Smith noted that the trucks involved in this work have been using Pelican Marsh Boulevard as their parking lot for the previous week which is a safety hazard, and the previous Sunday they were there before 7:00 a.m. to begin their work. Apparently they were not admitted through the gate, but came in through the back entrance of Bay Colony, and were allowed in by staff at Bay Colony itself.

Mr. Vanover indicated that after being notified by Mr. Smith, he did call the superintendent at Bay Colony to advise him that they needed to stop work. Apparently they did not stop until 10:00 a.m., when Mr. Vanover emailed him and advised him that he was breaking CDD rules and the Collier County Code Enforcement rules as well. There was no response, but the work did cease when the property manager at Bay Colony called the superintendent. Mr. Vanover

added that this job was anticipated to be finished within ten days to two weeks, and this is the last phase of this type of work in that area.

B. Contract with Lake and Wetland Management

The contract with this company is up for renewal, and the contract costs have not been increased for six years. The company has asked for a 5 percent raise, and Chairman Garofalo advised them that they would approve a 2 percent raise as budgeted if the company would improve their report process. The Chairman and Mr. Vanover recently met with the technician and developed a new reporting chart which will assist them in tracking the chemical use in the lakes. The chart shows each individual lake and what treatment was needed, and what and how much chemical was used. The lakes are also broken out by size, small or large.

Mr. Vanover and Chairman Garofalo are working on a new contract which will better define what the conditions are in the Pelican Marsh lakes, and will come back to the Board with it for approval.

Chairman Garofalo felt that the lakes in Pelican Marsh look better than they ever have, and added that the District does almost everything that is recommended in the meetings he attends on lake management and lake quality. Mr. Gorrnan asked how the chemicals are tracked, and was advised that they stay in the lake for a couple of days, kill the algae, and then dissipate after a rain. The lakes are classified as retention ponds so the chemicals can be contained and not flow into the waterways and Naples Bay.

ADJOURNMENT

There were no further public comments received, and Mr. Dorrill advised that the next meeting and public hearing for final approval of the 2017 budget would be on August 17. **On a MOTION by Robert Smith and a second by Gordon Walker, the meeting was adjourned at 10:20 a.m.**