

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT  
REGULAR BOARD OF SUPERVISORS MEETING  
Wednesday, July 19, 2017**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, July 19, 2017 at 9:00 a.m. at the Pelican Marsh Foundation Building, Naples, Florida.

**APPEARANCES:**

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

**ALSO PRESENT:**

W. Neil Dorrill, Secretary, Dorrill Management Group  
Tony Pires, District Counsel  
David Robson, Johnson Engineering  
John Vanover, Operations Manager

**ROLL CALL**

All Board members were in attendance, with Mr. Walker participating via speakerphone.

**On a MOTION by Joe Diaz and a second by Edward Walsh, the Board unanimously approved Mr. Walker's telephonic participation due to exceptional circumstances.**

**Public Comment**

Diane Powell updated the Board on the landscape issue along Holes 2 and 3 at the Tiburon golf course. Mrs. Powell met with the Planning Department at the County several times, and it was determined that because the Tiburon properties are abutting a golf course, that golf course is considered a buffer. For that reason it is supposed to have sod, a fence, a berm and landscaping to protect that outside area. The County recommended that they come back to the Pelican Marsh CDD, and they also recommended that they look at their HOA and closing

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documents to see if in fact there were any documents cited when the property closings were taking place. She and Mrs. Diaz did that checking, and came up with an Access and Maintenance Easement Agreement, Landscape Buffer, which she entered for the record, between the developer at the time, WCI Communities as the grantor, and the Pelican Marsh CDD as the grantee.

This document indicates that the landscape buffer easement on the Tiburon golf course along Livingston Road is in fact maintained by the Pelican Marsh CDD. It is Mrs. Powell's contention that WCI did this because the Pelican Marsh CDD is responsible for water management, landscaping and aesthetics all throughout Pelican Marsh and Tiburon, and she knows the goals of the CDD are to maintain standards and protect property values. With the clearing of the landscapes on Holes 2 and 3, stormwater issues have been created, with ponding in the rear yards and mosquitoes.

Mrs. Powell advised the Board that she was at the meeting to request the Board's help with the landscaping that was cleared on 2 and 3. She appreciated the fact that the CDD had concerns about what they actually owned, but when they met with the County, Christopher Scott brought out the tracts and plats and information that indicated that Pelican Marsh owns maybe whole or a part of the landscaping on the westerly side of the fence along the golf course, but most certainly they own the landscaping on the easterly side of the fence. Mrs. Powell asked the Board to help the affected residents by hiring an engineer for approximately \$3,000 to survey the property and see who owns it and who bears the responsibility to maintain it.

Chairman Garofalo's request was that Mrs. Powell give them an idea of what the Community's expectations are so this restoration does not drag on. The Chairman asked that this information be written down in black and white as people have different expectations of what the view should look like. Mrs. Powell indicated that with all due respect, she was speaking of the stormwater issue, and that it was never completely about the view. Chairman Garofalo

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suggested then that this is why it was important to have the residents' expectations written down for them. Mrs. Powell noted that the residents do not own the area, and that the berm is the responsibility of the CDD and the golf course, and the way it looks now is not acceptable. Chairman Garofalo agreed, and Mrs. Powell asked him to find out for them who does own the berm so the next steps can be taken.

Mrs. Powell also showed the Board pictures taken from her home that showed that there is nothing to divert the water, which pools in her yard, with the reconfiguration of the golf course and the clearing of the landscape.

Mr. Pires then clarified that there are two issues being discussed, one involving the landscape, the buffer and the berm, and the other dealing with the drainage situation in the rear yards of the various property owners. The District has a drainage easement over the entire golf course tract; it was dedicated to the District which has the responsibility for maintenance. To the extent that the golf course owner/operator modified the flows by virtue of any reconfiguration they did on the western portion of the golf course, it appears to be an engineering issue, and it should be determined whether it is due to the heavy rains or to the golf course activities.

Mr. Dorrill reiterated that the CDD owns and controls the master drainage system at Pelican Marsh, and he always distinguishes between the master, public drainage system and other private drainage easements. He suggested that they may want to evaluate drainage impacts to see if they affect the primary, public drainage system. If the renovation of the golf course has changed or affected catch basins and/or conveyance mechanisms that are part of this system, the District may need to get involved in that. He agreed that there are two issues, and there may need to be an evaluation of how the construction has affected the system.

Mr. Vanover noted for the record that the rainfall in June was over 20 inches, and the yearly rainfall is roughly 50. This extra rainfall may be part of the issue. Mr. Powell agreed that it is rainy season, but she has had this lot for over 12 years, and prior to the golf course

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reconfiguration Hurricane Wilma came through and the rain was very heavy, but after two days of hurricane rain, there was only a small amount of ponding on their lot.

Chairman Garofalo felt that the Board still needed some listed expectations from the residents, and an engineer's information had nothing to do with that. Mrs. Powell disagreed, as the District has an agreement with the developer to maintain the stormwater and that berm. She asked the Board, who was elected to represent the residents, to help them with this issue. Copies of the easement will be obtained for the Board members to read, and this item will be readdressed.

#### **APPROVAL OF THE AGENDA**

**On a MOTION by Joe Diaz and a second by Edward Walsh, the Agenda was unanimously approved by the Board.**

#### **APPROVAL OF MINUTES OF JUNE 21, 2017 MEETING**

On the first page, Mr. Walker asked that the words "Assistant Secretary" should be replaced with the words "Vice-Chairman" under Appearances.

Also on the first page, Mr. Pires suggested that to clarify those present at the meeting, under Roll Call the sentence beginning "All" in the second line should be replaced with "Chairman Garofalo, Don Pomerantz and Joe Diaz" were in attendance, and Gordon Walker participated via speakerphone."

On Page 2, in the second to last line under the first Motion, the name "Welch" should read "Walsh", and Mr. Dorrill was the Secretary as opposed to Assistant Secretary.

On the second line of the Approval of the Minutes, Mr. Zabott's was spelled incorrectly.

On Page 3, Mr. Walsh asked that the word "rate" be inserted before the word "increase" in the first sentence of the fourth paragraph.

On Page 4, the Motion was seconded by Mr. Diaz.

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On Page 7, Jim \*\* \* Crawford was the gentleman making the statement.

Additionally on that page under Public Comment, in the third and fourth lines in the second paragraph, the word “County” should be deleted and the word “District” inserted in its place.

**On a MOTION by Joe Diaz and a second by Edward Walsh, the minutes were then unanimously approved as amended.**

**FINANCIALS**

The seven month financials showed \$3,270,000 in cash at the end of May against \$31,000 in payables. The income statement showed year-to-date non ad valorem assessments received at 95.5 percent, and to the extent that there were any certificates sold at auction, they have all cleared through at this point. \$1,900 was received in interest in one month at the new bank, and year-to-date interest was \$12,000 against the originally projected \$3,000. In response to Mr. Walker’s question about this higher amount, Mr. Dorrill indicated that it was a higher rate coupled with no fees, as well as the higher cash position.

There have been some vacancies reflected under landscaping which is \$57,000 under budget, due primarily to lapsed salaries. Through May the amount of money spent year-to-date on irrigation purchases was about \$12,000 over budget. Year- to-date the District is \$8,000 over on health insurance, and they are checking on this internally. The total operating budget at the end of May was \$142,000 under budget on the expense side, a third of which is, again, due to lapsed salaries.

Historically the discounts taken by residents for early payments was shown on the expense side of the balance sheet, and it has been moved back to the contingency page which is a more accurate place for it. Chairman Garofalo pointed out that they were short \$149,000 under revenue due to the discounts taken, and that is now shown as an expense of the contingency. The net remains the same.

Mr. Walker asked about the \$500 charge amount at the bottom of page 3, and Mr. Dorrill

advised that it was part of an insurance premium which is prorated between the public officials liability, the general liability automotive property, and a bond. Mr. Walker indicated that it seemed to be attributed to crime and employee dishonesty, which seemed a little strange, and Mr. Dorrill indicated that there is a policy for employee theft or fraud that is an insurable risk, and the \$500 reflects the premium.

**On a MOTION by Edward Walsh and a second by Joe Diaz, the Financials were then unanimously accepted by the Board. (\*\*Check Motion maker/second, almost inaudible.)**

Mr. Walker asked how much money was recovered in tax certificate sales, and Mr. Dorrill noted that he did not have that information today, but could easily send it to Mr. Walker in an email. It was noted to be a small amount percentage wise.

Mr. Gorran asked about the budgeted amount of \$114,000 for anticipated discounts for early payments, what the actual was year-to-date. Mr. Dorrill indicated that it was at zero on the expense side, but the actual sum total of discounts taken was not available today, but Mr. Dorrill can get that information. Mr. Gorran indicated that if they were short 4.5 percent, that would be a significant number, and the Chairman indicated that through May it was \$149,000 minus \$114,000, so the District is still short \$35,000 of collections through that date. Mr. Dorrill indicated that the June financials may show some revenue from the tax collector's auction. It is anticipated that the District will still be short, as people took more discounts this year than expected.

## **MANAGER'S REPORT**

### **A. Proposed Amendment to Health Benefit Plan**

A proposal will be ready for the Board at either the August or September meeting. During the course of the budget deliberations there was a discussion regarding increasing the benefits to the two other managerial or exempt employees. Mr. Vanover has an employment contract, and the other two are Mr. Calamari for access control, and Mr. Vanover's operational assistant.

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Everyone else is eligible for overtime under the Federal Wage Laws. As a result of that, these discussions were held regarding increasing the opportunity for the managerial employees to have dependent coverage for either their spouse or their children, but not both. Mr. Pires is comfortable with that, but believes that the job descriptions for those two positions need to be reviewed and updated in order to distinguish between them and everyone else who is currently part of the group insurance plan.

Staff will draft and update the job descriptions for those three positions which will have to be approved by the Board, and Mr. Pires felt that would satisfy the requirement to allow this to occur. Mr. Pires added that they have discussed this, and that he will be working with Mr. Dorrill on the job descriptions and will make sure that it provides the opportunity for these management positions, if that is what the Board wishes.

Mr. Walsh clarified that what the Board is saying is that only Mr. Vanover has the dependent coverage in his plan, and now they are proposing that two additional management employees will have this available to them. Chairman Garofalo would like to see this changed for all three of the management employees to cover the wife or the children in their management contract. Mr. Pires suggested that it be included in their job descriptions, and the intention of having it for either the spouse or children was to make it consistent among all three of the managerial positions. To Chairman Garofalo's understanding, this benefit is taxable, and he would like to see it optional at the discretion of the three managers. At this point it will only be one manager who gets this benefit as Mr. Vanover won't get it because of his contract, and one of the other's won't take it as his wife has these benefits at her employment, so the budget will be adjusted for just the one manager. In the future anyone who holds a managerial position will have this option, and the cost will be \$6,000 per position.

In response to Mr. Gorran's question as to the rationale for this change, Chairman Garofalo indicated that it is a critical benefit to offer to obtain quality managers in the future. Other communities were looked at, and Mr. Dorrill added that it all boils down to fairness, consistency

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and retention among the three managers, and Mr. Gorran felt that the three managers had three different, unique jobs, and John is the boss. He therefore did not think it was necessary to make the three managers consistent. It was noted that different benefits are not generally provided to different managers, and there was further, general discussion on this issue among the Board members.

Mr. Dorrill advised that this was intended only to be an update, and the Board's approval is not being asked for at this time. Mr. Dorrill will work on the three job descriptions with Mr. Pires' suggested changes, and have it ready for the Board at the August or September meeting.

Mr. Dorrill indicated that this insurance was provided through Blue Cross of Florida in response to Mr. Walsh's question, and added that they are part of a large group by virtue of the fact that they have more than five employees.

Chairman Garofalo noted that he would like to target the August meeting for this information because the budget approval happens in August, and money from the contingency fund will be shifted to the health care package at that time, and the total budget will not be affected. This item will be included on the agenda for the following month for discussion and approval.

**B. Lightning Strike Damage June and July**

Mr. Dorrill advised the Board that lightning had struck both the US 41 and Airport Road gates. The buildings at the gates have lightning protection, but there can be a strike quite a distance from the gate which will be carried back through the low voltage irrigation or Comcast wiring and cause serious damage. The cost in repairs for the months of June and July was \$19,000. One of them is eligible for an insurance claim, which has been filed. The line item Other Contractual Repairs will be over budget as a result of these repairs.

Mr. Vanover added that one of the contributing factors to these strikes were the tall Washingtonian Palms that boarder the sides of the guard house. Two of these palms are dead or dying due to the strikes. He, Mr. Dorrill and Chairman Garofalo agree that these trees need

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to come down as they basically attract lightening. They are out of scale with the buildings, and Mr. Vanover did not think they will be missed if they are removed. Chairman Garofalo indicated that the four on each side of the building need to be removed as they are lightening rods. He has asked staff to go back two years and itemize all the equipment damage that has been done by lightning strikes to see if any trends by gate or electric component can be discerned. Potential causes and fixes may be able to be identified in this way. He agreed that all of them should be removed, and Mr. Vanover will get some bids on what this removal will cost.

Additionally there was a Specimen Palm at the Vanderbilt entrance that was struck and is dead, and will run from \$3,500 and \$4,000 to remove that one tree. Once all the bids are received the trees will be taken down as soon as possible.

Mr. Dorrill will advise the Board of any mitigation strategies they devise, and Mr. Vanover added that their electrician is slowly checking all of the main grounding rods, adding additional rods, and checking the electric panels on all four gates. The best price will be obtained for tree removal and this project will be done.

**ATTORNEY'S REPORT**

**A. Escada Fence Variance**

Mr. Pires had nothing to report other than he continues to wait on a necessary exhibit to complete the non encroachment agreement.

**B. Ventura Fence**

This item will not be completed and the final payment made by the Board until such time as the Certificate of Completion is received. There are two tracts of land, and the permit only mentioned one, so the certification of completion on the second tract is required. Mr. Pires will keep the Board advised.

**ENGINEER’S REPORT**

A. Introduction of Valerie \*\*

Mr. Robson introduced Valerie \*\*\* Klinty, their new engineer, to the Board members indicating that she is very civil engineer oriented, and is now at the firm and attending CDD meetings with Mr. Robson. Mr. Andy Tilton, the Vice-president of Johnson Engineering, has worked with Mr. Robson to provide services to the Pelican Marsh CDD, and they are now increasing their internal resources with the addition of Ms. . to the firm. She is in the process of learning about the CDD, the stormwater system, future projects, and how it all works.

**SUPERVISORS’ REQUESTS**

No additional Supervisors requests were received at this time.

**PUBLIC COMMENT**

Mr. Gorran heard about the fact that the paving company who was going to do the parking area at the community center was not allowed in to work on Sunday as the CDD does not allow work on Sunday unless it is an emergency. He asked if that is what caused the big delay. Chairman Garofalo indicated that the paving project had been planned for several months, and when the contractor asked to be able to work on a Sunday, the Chairman was out of town. Additionally, they could have planned for a weekend job weeks ahead of time, but the request was made at the last minute. While there is a County policy about no work on Sunday, the District made an exception for emergency situations on Sunday, and wrote their policy accordingly.

Mr. Vanover saw the request for paving and did not consider it an emergency, which may have been handled differently if the request had been made a month or two previously. then the paving company could possibly have received a variance to the policy. Chairman Garofalo felt that it would be a stretch to consider this an emergency.

Mr. Vanover added for the record that he had gotten a call on the Saturday they started the

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job at about 3:00 in the afternoon when it had begun to rain heavily, where the contractor asked to be able to finish the job on Sunday. As it was not an emergency and noted in the CDD's policy, and there is a County ordinance prohibiting work on Sunday, he denied the request. He had also received a request from another paving company to work on Sunday as well, which was denied.

Mr. \*\*\*\* from Watercrest added that the contractor knew this could not be done during the rainy season, and he did not realize that they were starting that weekend until he saw them on that Saturday. He felt that there was not enough communication all the way around, and the Foundation Board and their manager, who was on vacation until the 7<sup>th</sup> of August, needed better communications. He regretted the mess it caused.

Chairman Garofalo noted that a few years ago the air conditioning went out at the Foundation and Diana was given permission to have it fixed on a Sunday as it was an emergency. He added that the Board had revised their paving procedure at least twice to make it flow more easily. There were also some markings in the road that he had discussed with Diana who wanted to see if it was possible to clean up, but the Chairman felt that it should be left alone and the paver situation addressed as it needed more urgent attention.

Mrs. Powell then readdressed the Board on the Tiburon landscaping issue, and reiterated her request to the CDD Board to have the engineer determine ownership of the area in question at the recommendation of the County. The stormwater runoff from the golf course is finding its way to the residents back yards, and this has become a big problem with the golf course reconfiguration.

Chairman Garofalo indicated that each month there appears to be a new issue, while before it was the landscaping it is now stormwater management. He again requested that a list be prepared by the residents and presented to Mr. Dorrill advising him of exactly what they wished to have done. Another Board member felt that this was not too much to ask, and with

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all the information the residents now have, the Chairman felt that this would clarify things enough to enable the Board to move forward.

Mrs. Diaz agreed that it would be helpful, and noted that the main request initially was the berm and the destruction of the landscaping. The problem was and continues to be the establishment of ownership, and she felt that this was the most important issue at this point. Once that takes place, the residents will be better able to list their requests.

Chairman Garofalo indicated that if he gets a letter from the representative of the residents indicating what was needed, it was his opinion that a survey of the berm should be done to establish ownership. He did, however, want the residents' requests, with details, in writing, as there are many different issues that could be involved with whatever is requested. He added that this issue affects all of Pelican Marsh.

Mrs. Powell wanted to add that they have gone through many rainy seasons over the past several years, and this has been a very rainy season, but the ponding has never been as severe as it is now. She also wanted to reiterate that every document that she and Mrs. Diaz read dated back to 1997, say that there is to be a landscaping plan along that berm, and she contends that it is an integral part of the stormwater management, the landscaping, and the aesthetics within Tiburon's golf course. The planted material helps divert the stormwater runoff, and now there is no diversion. The County cannot locate a written plan, but the picture Mrs. Powell showed the Chairman was their plan, which now is changed. She asked if they could rely on the District's engineer to give the residents and the Board guidance on what should be done in this area, as they are taxpaying citizens who are entitled to what was written in the documents. The Chairman agreed, but only if it is determined that this is a CDD responsibility. He noted again that he is leaning towards having the engineer make that finding.

Mr. Dorrill added that in fairness to the residents' concerns, at the beginning they did ask their engineer to go out to the area and to look at the aerials that were available to try to determine

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if the trees on the outside of the berm or that fence were on District property, and it did not appear that they were. The engineer did advise them that for \$3,300 this determination could be definitively made. Up to this point it did not appear that there was a reason to spend that money, because as the District has the right to maintain the landscaping, historically no maintenance has been done on the outside. He added that he was a bit more concerned about the drainage, and if he finds that they have altered public drainage facilities during the course of the reconstruction, that opens a whole new issue that would require further action.

Mr. Dorrill further asked that this entire process be taken a step at a time, and asked what their main concern was at this point, be it the golf course property or the property within the berm for which the District has an easement. Chairman Garofalo added that on this side of Airport Road the Foundation documents have restrictions on grading, which spell out what is required of the homeowners and what the developers have to do to assure that there is no flooding of adjacent properties. The CDD does not have such a document.

Mrs. Powell also reminded the Board that the residents have stepped up, they have spent money and time on irrigation, and the issue is the golf course which they have tried to dialogue with over the past eight months, but they are no longer accepting phone calls from the residents and will not answer Mrs. Powell's emails. As it relates to the irrigation, she felt that some irrigation had to be installed when the trees were planted to allow them to mature and develop over the years. Mr. Vanover indicated that at the time they were planted some temporary irrigation may have been put in as the CDD has no close facility to enable that to be done.

There was further discussion concerning actions that the golf course was asked to take to satisfy Chairman Garofalo's requests, and it was not done. He asked the residents to tell them what they specifically want.

Mr. Dorrill asked that they go back and address the new concerns which are site drainage and impacts to the public drainage facilities. Mr. Pires added that from his perspective in advising

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the Board, the impact to the facilities needs to be determined, and to the extent that the facilities that are the Board's responsibility are being impacted, the Board does have an obligation to look at that. However, any private facilities that are impacted must be addressed by Collier County, regardless of any covenants, as there are code requirements with regard to how you discharge water off your site. Mr. Robson agreed.

Mr. Dorrill added that if the District has a public drainage easement that is within the swale behind someone's home adjacent to the golf course that no longer functions the way that it was intended to, then the District has an affirmative responsibility to address this. He again advised that the Board did reach out twice in good faith to the golf course on the residents' behalf, and the District has been asked not to contact them again. The Chairman may revisit that, but he also asked Mrs. Powell to be a little more specific in what the residents think it will take to satisfy them. They also have the issue of surveying to see who owns what, which is also being addressed. Mrs. Powell asked if it would be appropriate to contact the County engineer, and Mr. Dorrill did not think that he would send his survey crew out as the closest County land is a quarter mile away.

Mr. Dorrill noted that the document and pictures presented by Mrs. Powell will be made part of today's record at her request, and the three different issues discussed will be evaluated in the interim. The Chairman asked that this information be copied and sent to the Board members as soon as possible, and this will be done after this meeting.

Chairman Garofalo asked Mr. Dorrill if he would send a note to Diane asking her to let him know specifically what the residents' requests are, then it will be on the record. (Overtalk)

**ADJOURNMENT**

With the agreement that the August meeting would be held on the 16th, **the meeting was adjourned at 10:25 a.m. on a MOTION by Don Pomerantz and a second by \*\*\*Joe Diaz.**