

**PELICAN MARSH COMMUNITY DEVELOPMENT DISTRICT
REGULAR BOARD OF SUPERVISORS MEETING
Wednesday, March 21, 2018**

The Board of Supervisors of the Pelican Marsh Community Development District met on Wednesday, March 21, 2018 at 9:00 a.m. at the Pelican Marsh Foundation Building.

APPEARANCES: Frank Garofalo, Chairman
Gordon Walker, Vice-Chairman
Don Pomerantz, Treasurer
Joe Diaz, Assistant Secretary
Edward Walsh, Assistant Secretary

ALSO PRESENT: Mallory Clancy, Johnson Engineering
Tony Pires, Counsel for the Board
John Vanover, Operations Manager
James Calamari, Access Control
Nathan Phillips, District Auditor

ROLL CALL

All members of the Board were in attendance.

PUBLIC COMMENT

Mrs. Teddy Sinner*** advised the Board of an invasive species of toad from Australia that is very toxic, kills small animals, and as they lay 20,000 to 30,000 eggs twice a year, the threat will continue to spread. They are also dangerous to humans as their skin secretes toxic venom. There are no known predators. Mrs. Sinner*** has done some research, and does not feel that they should wait until the University of Florida makes some statement about this species. She is aware of some people who have lost their animals who picked up one of these toads. Her research indicated that certain types of fences can be put up during specific times of the year,

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and people have indicated that they are concerned that the realtors will object, as they will have to explain the fences to a possible buyer. This is not just Pelican Marsh's problem, but will soon be a serious problem for everyone.

The Board was asked to invite other communities to join in the research of this species, and the solution this resident has read about that seems to have the most potential is to block this toad from returning to the water at night, which it must do to survive, with a large gauge fence that allows smaller creatures in. This is a very large toad weighing up to four and a half pounds, and after about a week a whole population of them will have died. Mrs. Sinner*** suggested that Pelican Marsh can get ahead of this problem by being proactive on it, and she asked the Board to take this seriously. The noise they make at night is like a jackhammer, and is interrupting sleep.

Chairman Garofalo noted that this problem has existed in Pelican Marsh for a couple of years, and some communities have actually used exterminators, but that has been unsuccessful as there are so many of them. A recent documentary of Australia indicated that 75 percent of the continent is overcome with toads, and now Florida is being overrun with them. As far as fences are concerned, Pelican Marsh probably has ten miles of shoreline or more, and he was not sure that fencing every lake would be feasible. Additionally the turtles and ducks will be stopped from getting in the water.

Mrs. Sinner*** noted that this fence would be up for only a week, twice a year, and she felt that it would be worth it, as the problem will continue to get worse and worse. Currently it is only in certain parts of the state, but something must be done. Chairman Garofalo was against the idea of fencing the lakes, and with the harm it would do to other wildlife, he felt it was the wrong approach. He agreed that something must be done and was open to any other suggestions.

Mr. Dorrill advised that he would be at the Foundation Board Meeting at Pelican Bay the following Friday, and Pelican Bay has hired a biologist from Turrell, Hall and Associates to give

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them some advice on this issue, so he will do some fact finding for the Board. At the least, they will get the recommendations of recognized biologists, and he will get in contact with the resident and the Board with this information.

Kathy Farias from Troon Lakes advised the Board that when they returned to Pelican Marsh in September they had a huge tree on their hedge. They back up to the preserve, and had to pay someone to remove the tree into the preserve. She expressed her concern about the state of the preserve, which is full of downed, dead wood and felt that there would be a terrible fire if it were ignited. They were told at one of the meetings in the Community Center that was attended by the Fire Department that something was going to be done, and someone would be out to clear away some of the debris. Nothing has yet happened, and she asked the Board if there was anything that was going to be done.

Chairman Garofalo indicated that when a tree falls down it is the State law that the property owner where the tree fell is responsible to clear out that part of the tree. Additionally, the preserve cannot be disrupted, and there are so many trees down in the preserves that it is a low priority for the Board as there is so much going on regarding recovery from the storm. Staff will get in the preserve at some point in time, and if the tree is a danger to anyone, they will chop it up. Any material that is in the preserve, however, must stay in it. He suggested that someone from the State could possibly come and evaluate if this preserve area is a fire hazard or not.

Mr. Dorrill added that they work with the Florida Forestry Service, and although he would not recommend it, a permit can be issued for a controlled burn. The Forestry Service will come out and do an evaluation as to what they consider the amount of fuel may be on the ground in that area. He indicated that he would be willing to ask them to come out and do an evaluation of what the fire hazard may be.

(Another resident's comments were unable to be heard.)

The Chairman advised that almost \$900,000 has been spent thus far in cleaning up Pelican

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Marsh and Tiburon, and the fences have shrubs have yet to be redone along with some other things. It will be over \$1,000,000 to get the clean up completed, and they are having to set priorities as to what gets done when.

A resident recently heard that a controlled burn had occurred nearby which had gotten out of control. Apparently another controlled burn had the same result, and this gentleman thought that controlled burns were a very bad idea. The Chairman agreed, indicating that their approach was to minimize the mess as much as possible, and Mr. Dorrill reiterated that they will contact the Forestry Division for their opinion on the preserve in question.

APPROVAL OF AGENDA

Mr. Dorrill advised that Nathan Phillips would be at the meeting to present the audit at approximately 10:15. The Board agreed to accommodate him for the presentation when he arrived.

The Agenda was then unanimously approved on a MOTION by Gordon Walker and a second by Edward Walsh.

APPROVAL OF MINUTES OF FEBRUARY REGULAR BOARD MEETING

On Page 1, the starred name under Public Comment was Joan Rizzo.

On the 4th line from the bottom on that page, the word “had” should be “hand”.

On Page 3, in the last line, the word “transfer” should read “transponder”.

On Page 5 in the 3rd line from the top, the stated shrubs are “Krusa” shrubs.

On Page 7, in the 2nd to last line in the second paragraph, the word “but” should be changed to “because”.

On Page 11, the starred name in the 3rd from the last and last lines should be Rizzo.

Also on Page 11, in the last sentence of the third paragraph, “open” should read “opened”.

On Page 12 in the second paragraph, 2nd line, “done” should read “down”.

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On Page 13, in the 2nd to last line before the Adjournment, the word “will” should be inserted before the word “prepare”.

Additionally on Page 13, in the 11th line from the top, the sentence should read “to close the permit” behind Troon Lakes rather than the “preserve”.

In the 2nd line of the following paragraph, quotation marks should be put around the words “as is”.

On a MOTION by * and a second by Joe Diaz, the minutes were approved as amended by the Board.**

FINANCIALS

Year-to-date, through the end of February, \$3,123,000 had been received in revenue, net of discounts, and against the prior year actual for the same period of time, the District is about \$13,700 over budget. This is 94 percent of annual revenues that were collected prior to mid year.

The balance sheet for the primary general fund showed \$3,744,000 in cash. There are some small due-from's in the debt service funds that offset some of the District's administrative expenses. Total assets in the general fund are \$30,461,000, almost \$19,000,000 of that being the depreciated value of the community's infrastructure.

Under liabilities, a fairly large payable that was still outstanding at the end of January was the final payment to the contractor, \$603,000, along with some month ending payables that were received late. A due-to the debt service funds was a liability that was paid to the trustee at US Trust to pay off the bond holders. This payment is made twice a year from the prorated funds that are received electronically from the tax collector.

With over \$4,000,000 in cash, however, the District's cash position remains strong at midyear. On the income statement, total revenues for the month were \$234,000, and transmitter revenues were up as 300 transmitters were processed during January and February.

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Revenues towards the end of January were almost \$3,100,000 in total, and all of the expense categories, with the exception of the electrical budget which was about \$7,000 over budget, were under budget in the first quarter by about \$70,000 total.

On a MOTION by Gordon Walker and a second by Don Pomerantz, the Board unanimously accepted the Budget as presented.

MANAGER'S REPORT

Mr. Dorrill welcomed many residents who he had not seen at previous meetings, and gave them a brief overview of development districts and their function. Pelican Marsh is a special purpose government as allowed under the Florida Constitution, and the Board members appear on the ballot in November and are voted in just as the Governor is. These districts have been around since Florida was a territory in the 1800s and perform many responsibilities. This Board meets on the third Wednesday of every month and has for almost 20 years.

A. B. C. Hurricane Irma Recovery Update/FEMA Status/Financial Status

The contract cleanup work was substantially completed at the end of January, and the annual survey of the pathway and sidewalk conditions will be done where upheavals from roots and settling on the pathways will be looked for and marked as hazardous. They will then be ground down or concrete sections will be removed. This work is ongoing, and some of it will be directly related to the trees that went down during the hurricane.

A lot of work to restore the landscape buffers and berm areas remains, especially along Vanderbilt Beach Road, US 41 and a little on Airport Road.

The FEMA worksheet has been filed, and the District is eligible to get a good percentage of the money spent on recovery back. About \$850,000 in outside contractors and heavy equipment labor has been spent just to clean up the debris, and they hope to get .85 to .90 cents back on every dollar. HOAs are not eligible to get any of this money back. As a rule, landscaping is

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not an insurable asset, so this is a major benefit of living in a CDD. FEMA has asked for some minor clarifications on the worksheet, and their case manager assigned by FEMA is helping them through the process.

The County has a concern that they may not see any of their money until the end of the calendar year, which could potentially have some cash flow consequences to the District. There is still a half million dollars in cash reserves due to the Board's fiscal responsibility, but the fence replacement issue is still to be addressed. Mr. Dorrill will be carefully watching the cash flow as they enter the second half of the year.

The first page of the monthly financials is titled Hurricane Irma Expenses, which shows that \$874,070 has been spent, which does not include direct salaries, overtime costs, fuel and things of that nature. All of those funds, including a portion of Mr. Dorrill's management fee, are recoverable under Federal Law.

D. Special Board Meeting in April for Chain Link Fence Sourcing

An extensive presentation was made the previous month on the survey and the amount of fencing needed to be repaired or replaced. The Board will be asked for a special meeting to be held on the first Monday or Tuesday of April to open the bids which have been solicited on an accelerated bid process after the engineer's report on this topic.

E. Gables' Request to Add Dirt to Berm at Their Expense

When some of the big ficus trees went down along the berm at US 41 they took large areas of the berm with them as the root ball detached. They are asking the Board for the ability to purchase some additional fill at their expense to repair and increase one area of the berm where there is an area three to four feet lower where the tree came out. They are asking the District to place this fill at the same time they go back in to re-landscape some of those areas, probably during the rainy season.

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Chairman Garofalo noted that there are about three places that border US 41 that need to be built up. Two of them are still heavily shrubbed, and it was the Chairman's opinion that they would do more damage adding dirt on these areas by killing the shrubs. The one area has about a four foot drop and the trees and shrubs are totally wiped out in this area, so it would be appropriate to dump some dirt in there to build it up.

The key in this case is that the residents will pay for the dirt and supervise the work, and Mr. Pires will advise them if any legal work needs to be done in this regard. Mr. Pires indicated that a simple license agreement should be drawn up as far as hold harmless indemnification and insurance, particularly with the contractor using heavy equipment. He has a form for that and he can prepare it and send it to the Chairman.

On a MOTION by Joe Diaz and a second by Gordon Walker, the Board unanimously approved the Gables request to add dirt to that portion of the berm as discussed along US 41 at their expense, and to have the Chairman execute any document as deemed necessary by counsel.

Mr. Gorran from Watercrest asked if the type of dirt, the height of it and other necessary specifications would be known before this was done, as it sounded to him like the Board was relegating their responsibility to the Gables for the work. The Chairman felt that Mr. Gorran raised a good point, but basically the idea is that they are going to hire the contractor, the Board is not going to be involved, they will agree on where the dirt is going to be put, and there is no sidewalk in the area that would be crushed.

Mr. Dorrill noted that he and Mr. Pires had just had a side discussion on this, and there is a site improvement plan that was submitted to the County and permitted at the time of the original construction. Nothing will be allowed to be done that would deviate from that plan, or that would require an amendment of modification to that site development plan. This is a repair, and as long as they are willing to help effectuate that repair, that is the way that the agreement is going to be framed by the document Mr. Pires prepares. The original height restriction will be complied with.

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Chairman Garofalo added at this point that they will be finishing up the sodding in the coming week, and then he and Mr. Vanover will walk Pelican Marsh and Tiburon and see if there are any areas where shrubs can be installed before the fence is put in. At this point they may have to consider staff working some overtime to get some shrubs in. They will work out a plan on this, but then they will have to get back into getting people to bid on the job, but the unfortunate side of that is a contractor will charge over \$100 for overtime work. They will discuss this, keeping in mind that they will probably have over 1,000 shrubs to buy.

They were not sure when this work could begin, as the job market is tight with the building boom going on, but Mr. Walsh felt that it might be cheaper to get some part time help. Mr. Vanover added that he does not have a full staff right now, and the labor market is stretched to the limit.

Chairman Garofalo added that they have been unable to find contractors for the fence, and Mrs. Clancy has been coordinating this effort both statewide and countywide to find contractors to do this work. They have spoken to a local contractor who has been working seven days a week since September and is committed for the next two months. It is a big problem, and they have been trying to figure out how to start the landscaping before the fencing goes in.

A resident then suggested that it may be June before the fencing starts to go in, and the Chairman felt they would know more when Mrs. Clancy gives her report, but when the proposal was put out they asked for both standard and accelerated timing and costs. This is the reason for the special meeting in April, so they can get all the information and costs, and begin the fencing project as soon as possible.

Mr. Gorran asked if the fencing would be reimbursed by FEMA, and the Chairman indicated that part of it would, but that none of the landscaping costs were eligible for reimbursement. In response to a question from Mrs. Rizzo (inaudible), the Chairman indicated that he and Mr. Vanover had walked the fence lines with this specific contractor who declined the job, stating

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that the government procedure was too complicated. (Inaudible section)

Mr. Pires then suggested that there have been some demand letters from Mrs. Rizzo's attorney regarding some claim or litigation against the District, and Mrs. Rizzo is a member of the public and can make any statement she wishes to. But to the extent that there is discussion back and forth with this pending litigation, Mr. Pires would suggest caution.

The Chairman agreed, and advised Mrs. Rizzo that as there is an attorney working on this issue, nothing further can be discussed. Mr. Pires added once again that Mrs. Rizzo can make any comment she wishes to. Mrs. Rizzo noted that they had found local contractors who were four months behind but were willing to do the work. (Inaudible section)

Mr. Pires suggested that the Board's actions speak for themselves, there are audio recordings and minutes, and the Board has a certain amount of discretion on this issue which they have exercised.

Mrs. Rizzo was thanked for her comments.

ATTORNEY'S REPORT

Mr. Pires had nothing further to bring before the Board.

ENGINEER'S REPORT

Mrs. Clancy from Johnson Engineering noted that they had put out the notice to bid on this project the previous day, and an onsite meeting is planned for the following Thursday at 9:00 a.m. with Mr. Vanover for any interested contractors to walk the fence portions needing work. All sealed bids must be in by Tuesday, March 27th, which is a seven day period that will accelerate this bid process. When the special meeting is scheduled for early April, the Board will make a determination based on the bids that were turned in by the deadline. Once the bids are opened at the special meeting, the Board will know when the project can begin and what the accelerated costs will be. Those costs were originally estimated at

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anywhere between \$200,000 and \$300,000.

Mr. Vanover noted that they currently have two companies that are interested in bidding, Career Fence out of Cape Coral and Carter Fence out of Naples. He assumed that both of them would be present at the meeting the following morning to walk the area. Mrs. Mallory added that they had also offered the option of contractors doing a portion of the fence, and if there are companies that are delayed on another job, they could perhaps do a portion of the fencing more quickly. In that case, multiple companies could be working at the same time.

In response to Mr. Dorrill's question on how many linear feet of fencing needed to be replaced or repaired, Mrs. Mallory indicated that it was a combination of chain link and ornamental, and the total was about 9,000 linear feet. Of that, it was a little over 400 linear feet that was aluminum.

Mr. Pomerantz asked if the figure of \$200,000 to \$300,000 made sense to Mr. Vanover, who indicated that he did not know what it would cost in a regular market to get the chain link repaired, but he guessed it would be approximately \$15 to \$20 a foot to install it new. He was not sure of the cost in this accelerated market.

Chairman Garofalo stated that the reason the contractors have to walk the fencing is because at some points there appears to be no damage, and then all of a sudden a portion of it is crushed. Some fences are damaged more than others, some have a top rail while others do not, and this makes it extremely difficult to write down what the repairs will be, and that is why it is important to actually see what needs to be done.

Mrs. Clancy added that there are spots that are in an open area and the repairs will be relatively easy, while others are located in areas that just to get repair equipment in will be difficult. Mr. Gorran from Watercrest noted that there are areas in Pelican Marsh and Tiburon that are more critical than others, and suggested that it could be broken down into smaller contracts so a whole big process did not have to happen. Chairman Garofalo indicated that this is what was suggested by Mrs. Mallory, and they hope to get both of the interested contractors

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to work simultaneously on different areas within the District. For example, Tiburon has a massive area that needs to be fixed which is totally different from some of the fencing in Pelican Marsh.

Patsy from Watercrest stated that when she spoke to the Chairman on the phone several months ago, he had suggested to her that when they repair the fence they could possibly install the inserts that lend some privacy. The Chairman indicated that this was a minor issue, but noted that there were a couple of areas on the cul-de-sac where they would be nice to have. The bigger issue is finding a contractor who has the time to do the work. This added extra is not part of the bid, but it could be as a change order. Mr. Dorrill felt that this was a good point, as there are some areas that now have no landscaping where this would be helpful. He will make a note and evaluate that and handle it as a change order.

Mr. Dorrill felt that in fairness they should develop some criteria for this at a staff level so that there is a basis to make the decisions where those inserts should be added. Mr. Dorrill added that with the Board's authorization, the staff has done more than any community in town in its efforts to get security and fencing taken care of. The County has a section of fencing down on Vanderbilt Beach Road which they have indicated will take two years to be repaired. The Board of Pelican Marsh has planned an emergency meeting to select bids which has been done on an accelerated process, and a premium is being offered to contractors who will start early. They are willing as well to break the work up and have different contractors do it, and Mr. Dorrill is convinced that the Board and staff is doing a good job of cleaning up and addressing the issues of security and perimeter fencing needs, and he asked those present for just a little more patience.

Mr. Dorrill indicated that Mrs. Clancy had done a great job in coordinating this process of repairing the two miles of fencing, and he suggested that she be given three days to evaluate the bids and the scheduling following the bid openings. This would take them into the first week of April, and he asked the Board if they would be willing to meet, and what their

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schedules looked like for an emergency meeting for purposes of awarding the contract on the Monday or Tuesday following Easter on the first. After a brief discussion, the Board agreed that Monday, April 2, at 3:00 would work, and Mr. Dorrill will advertise this special meeting to meet notice obligations. They will verify that the regular meeting facility at the Foundation is available, and if not, they will meet at Mr. Vanover's facility.

On a MOTION by Edward Walsh and a second by Don Pomerantz, the Board unanimously approved the special meeting on the 2nd of April at 3:00 p.m. to open the bids for fence repair and replacement.

SUPERVISORS' REQUESTS

No additional requests or comments were made by the supervisors.

PUBLIC COMMENT

Mrs. *** from Escada noted that they had a near break in from their lanai at around 3:00 a.m. a couple of weeks previously, and she saw a man standing on their lanai through her window. People are walking in from the street as the fence is down, and people are walking in and fishing in their lakes. Her dog heard the noise and scared the man away, but it could have been a very dangerous situation. Along with the fence all the landscaping and trees are down, and she just wanted the Board to be aware that the faster they can get their landscaping back along with fencing will be appreciated as people are walking in all the time off the street.

Mr. Dorrill noted that they also hire off duty officers from the Sheriff's Department to do residential patrols, and they have a very good relationship with the North Naples Substation commander. They are always concerned about this, and a similar situation occurred several years ago in another neighborhood. He will make these officers aware of the situation in this area, and he will also speak to the president of the Escada HOA about it, and will check with the Master HOA to see if they are interested in cost sharing or helping to evaluate other areas that

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need this perimeter fencing, which will be a deterrent. (Inaudible comments from other residents.)

Mr. Pomerantz asked if any price gouging by fencing contractors had been seen in this situation, and he was advised that it has been happening.

Mr. Tony Schreck *** shared his appreciation and those of the homeowners in Tiburon for the job the Board and staff has done in the past five months. He knew that it has been very difficult, and felt that there is no finer community than Pelican Marsh, and he is grateful for what is being done. Mr. Calamari is doing a great job with security, and Mr. Vanover work is also appreciated. This resident added that it would be a privilege and an honor to someday serve with the Board, and the Chairman suggested that he attend the meetings and see what the Board does on a regular basis.

A brief recess was then taken.

AUDIT PRESENTATION

Mr. Dorrill apologized for not having copies of the draft audit that arrived after the meeting materials were assembled, but noted that Mr. Phillips would give the Board an overview of the audit today. The Board can then look it over and affirm the audit at the meeting to be held in a few weeks.

The audit was as of September 30, 2017, and Mr. Phillips highlighted a few things for the Board members. As part of the audit the bank accounts and transactions were looked through, and the conclusion was that everything was fairly stated. He pointed out on Page 11 that the balance sheet showed that as of the end of September there was \$29,000,000 in assets. \$26,000,000 of that is the infrastructure, and 64 percent of that has been depreciated. As they are moving into a higher level of depreciation, at some point some of those assets will have to be replaced. Cash on hand is \$1,400,000. Obviously that changed due to the hurricane costs,

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and the charge of the operations in the general fund as of September 30 was \$170,000.

Debt has been paid down on a timely basis pursuant to the bond indenture, and Mr. Phillips did confer with the US Bank on the bond indenture and there were no issues associated with that.

Overall expenses went up from last year to this year by 3.6 percent, which included the hurricane costs.

All the expectations in the budget for 2017 were as anticipated, and none of the expenses were out of line or out of the ordinary other than the hurricane issue and the rising utility rates. The '97 bonds have been paid off so the debt is lower.

The general fund shows that the District was up by 8.3 percent in expenses, \$170,000 of which was hurricane costs, and some cost of living costs, but everything else is as anticipated in the budget.

Overall the District has been complying with all regulations, and the Auditor General requires that the public funds being invested pursuant to Florida Statutes, which they are. There was no evidence of any abuse or fraud, illegal acts or anything else that needed to be brought to the Auditor General's attention.

The District has followed all its policies, procedures and protocols, the internal controls that Dorrill Management uses to oversee management have followed all protocols that were adopted. The bonds continue to be amortized pursuant to the schedules,

The general and debt service funds were in a satisfactory condition and money has been set aside for various needs. The budget has been delineated going into 2018, and there are no legal issues other than some brief discussion regarding claims that he had with Mr. Pires, but nothing that created a concern for an accrual of a liability. The budget showed that expenses were below the appropriated money, so no amendment was required. Nothing of any concern needed to be reported.

Mr. Dorrill advised that about \$850,000 has been spent on hurricane costs, and a claim has been filed with FEMA, and there is roughly another \$100,000 in labor and payroll and a

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percentage of Mr. Dorrill's management fees.

Mr. Phillips added that an assessment of financial condition is done annually as well, and the District is not in a state of financial emergency.

The Chairman noted that three-quarters of their emergency fund has been spent on hurricane expenses, and until they are reimbursed by FEMA, that situation remains.

On a MOTION by Don Pomerantz and a second by Gordon Walker, the presentation was unanimously accepted for purposes of the final report being issued by Mr. Phillips, and when Mr. Pires' letter is updated, it will get transmitted to the proper authorities.

Chairman Garofalo indicated that they were going to be submitting their first budget draft sometime in May, and while he did not know what they will get from FEMA, he felt that they were still in good shape.

ADJOURNMENT

On a MOTION by Gordon Walker and a second by Edward Walsh, the meeting was then adjourned at 10:30 a.m.