

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Public Hearing and Regular Meeting on September 7, 2023 at 10:00 a.m., at the offices of Barraco & Associates, 2271 McGregor Boulevard, Suite 100, Fort Myers, Florida 33901.

Present were:

Christopher Hasty	Chair
Barry Ernst	Vice Chair
Aaron Milosevic	Assistant Secretary
David Myers	Assistant Secretary

Also present, were:

Chuck Adams	District Manager
Wes Haber (via telephone)	District Counsel
Carl Barraco	District Engineer
Frank Savage	Barraco and Associates, Inc. (Barraco)
Kristi Houston	Resident
John Buchholz	Resident
Bill Magri	Resident
Rick Bennington	Resident
Don Crispen	Resident
Gregg Christensen	Resident
Dave White	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:02 a.m. Supervisors Milosevic, Ernst, Hasty and Meyers were present. One seat was vacant.

▪ **Acknowledging Receipt of Demand Letter Regarding Retaining Wall**

This item was an addition to the agenda.

Mr. Haber stated his office received a demand letter from an attorney representing a group of residents, along with third-party Engineer Report about the retaining wall. Due to the potential threat of litigation, he suggested refraining from an open exchange dialog with residents about this matter like has occurred in prior meetings and, instead, he recommended

adhering to the public comments protocol, as adopted via Resolution in 2017, which resembles how a City or County meeting is operated. There are two public comment periods during which speakers are allowed three minutes each to make their comments. One is near the beginning of the meeting for comments about agenda items and the other is near the end of the meeting for non-agenda items.

Mr. Haber suggested amending the Fifth Order of Business to add a Notice for a Request for Qualifications (RFQ) for a Design Engineer for retaining wall repairs and a Request for Proposals (RFP) for a retaining wall cleanup project.

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, amending the Fifth Order of Business to add Consideration of advertising a Request for Qualifications for Design Services for Retaining Wall Repairs, was approved.

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, amending the Fifth Order of Business to add Consideration of advertising a Request for Proposals for cleanup of retaining wall damage, memorialized in Resolution 2023-11, was approved.

SECOND ORDER OF BUSINESS

Public Comments

Regarding the proposed Fiscal Year 2024 budget, resident Kristi Houston stated she thought the CDD was transferring the “Interlocal Agreement-Vista Blue” and the “Water level and quality reporting” budget line items to the HOA. Mr. Adams stated this will be discussed during the Third Order of Business.

Resident John Buchholz asked when the erosion repair work will commence. Mr. Adams stated that timing is dependent on the rainy season ending and water levels receding.

Mr. Buchholz stated he is part of the group that initiated the Demand Letter mentioned earlier and noted that he and the other residents in no way meant for it to be a threat directed to the CDD or Board; their attorney was engaged to review the transition and review the Report with the Board.

THIRD ORDER OF BUSINESS

Public Hearing on Adoption of Fiscal Year 2023/2024 Budget

- A. **Proof/Affidavit of Publication**
- B. **Consideration of Resolution 2023-09, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024; Authorizing Budget Amendments; and Providing an Effective Date**

Mr. Adams stated that the proposed Fiscal Year 2024 budget is the same as the version presented at prior meetings. Regarding Ms. Houston’s earlier comment, he will revise the the version “Water level and quality reporting” budget line item definition on the definitions page, as the budget for that was decreased because the CDD will not be doing water quality testing in conjunction with Blue Lake.

Resident Dave White asked why the CDD is not testing water quality. Mr. Adams stated the HOA will be doing it.

On MOTION by Mr. Ernst and seconded by Mr. Milosevic, with all in favor, the Public Hearing was opened.

There were no public comments.

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, the Public Hearing was closed.

On MOTION by Mr. Ernst and seconded by Mr. Milosevic, with all in favor, Resolution 2023-09, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024, as amended to revise the definition regarding water quality testing; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

FOURTH ORDER OF BUSINESS

Consideration of Resolution 2023-10, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2023/2024; Providing for the Collection and Enforcement of Special Assessments, Including but Not Limited to

Penalties and Interest Thereon; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date

There were no comments from members of the public regarding this item.

On MOTION by Mr. Hasty and seconded by Mr. Ernst, with all in favor, Resolution 2023-10, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2023/2024; Providing for the Collection and Enforcement of Special Assessments, Including but Not Limited to Penalties and Interest Thereon; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

Update: Retaining Wall and Lake Bank Erosion Repair Activities

A. Consideration and Authorization of Procurement Process for Retaining Wall Project

This item was addressed in conjunction with the added agenda items below.

- **Consideration Resolution 2023-11, Approving Request for Proposal Documents for the Lake Bank Cleanup Project; Providing a Severability Clause; and Providing an Effective Date**

This item was an addition to the agenda.

Mr. Adams distributed and presented Resolution 2023-11 and accompanying exhibits.

Mr. Haber stated Resolution 2023-11 approves, in form, the RFP Notice and Evaluation Criteria and authorizes Staff to work with the Chair on the RFP package.

Mr. Barraco and Mr. Haber reviewed the point structure. Regarding unit prices, Mr. Adams stated the Unit Pricing Schedule will be completed once Mr. Barraco’s office submits the Project Manual. Regarding penalties, Mr. Haber stated there is a liquidated damage provision in the CDD’s standard form of Agreement.

The Board opened the floor to public comments.

Resident Bill Magri asked if quality is a component of the project and what assurance there is to homeowners affected by this activity that the project will be completed to the homeowners' satisfaction. Mr. Hasty stated, indirectly, under the point system, it is experience. Mr. Barraco's office is preparing the work for the RFP, which will generate the scope of work.

Regarding restoring homeowner property, Mr. Adams stated the contractor is expected to restore the property to the condition it was prior to the project. Regarding the Cleanup Project, it will not involve any private property.

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, Resolution 2023-11, Approving Request for Proposal Documents for the Lake Bank Cleanup Project; Providing a Severability Clause; and Providing an Effective Date, was adopted.

▪ **Consideration of Request for Qualifications for Design Engineering Services for Retaining Wall Repairs**

This item was an addition to the agenda.

Mr. Adams distributed and presented the RFQ for Design Engineering Services with exhibits to design the retaining wall. Regarding the Competitive Selection Criteria, Mr. Haber stated that the CDD must consider proposals based only on the qualifications, not the bid prices, since it must adhere to the Consultants Competitive Negotiation Act (CCNA). He discussed the overall RFQ process.

Mr. Barraco suggested and the Board agreed to make the following changes to the Competitive Selection Criteria:

Item 3, Geographic Location: Change "20 Points" to "15 Points"

Item 4, Willingness to Meet Time and Budget Requirements: Change "15 Points" to "20 Points"

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, the Request for Qualifications and Competitive Selection Criteria, as amended, and authorizing Staff to proceed with the RFQ, was approved.

It was noted that are no additional updates. An appraisal was submitted but whether the purchase amount remained the same or increased is not known.

SEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2023

Mr. Adams presented the Unaudited Financial Statements as of July 31, 2023. Lennar declaring that the retainages in the Construction Fund have been paid is still pending.

The financials were accepted.

EIGHTH ORDER OF BUSINESS

Approval of August 3, 2023 Regular Meeting Minutes

Mr. Adams presented the August 3, 2023 Regular Meeting Minutes.

On MOTION by Mr. Ernst and seconded by Mr. Meyers, with all in favor, the August 3, 2023 Regular Meeting Minutes, as presented, were approved.

NINTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

There was no report.

B. District Engineer: Barraco and Associates, Inc.

Mr. Barraco introduced Mr. Frank Savage, who rejoined Barraco after a sabbatical and will be assisting on CDD matters.

C. District Manager: Wrathell, Hunt and Associates, LLC

- **NEXT MEETING DATE: October 5, 2023 at 10:00 A.M.**

- **QUORUM CHECK**

Mr. Ernest noted that the Fiscal Year 2024 Meeting Schedule in the agenda depicts the meeting location as the WildBlue Clubhouse Card Room instead of the offices of Barraco & Associates. Mr. Adams stated that the document in the agenda was incorrect. The correct meeting location is Barraco & Associates' offices and, as advertised, it is not expected to change until the retaining wall and erosion repairs projects are completed and public participation is expected to ease such that it does not exceed the card room capacity. Mr. Buckholtz stated he

is negotiating with Lennar to hold meetings at the restaurant on Mondays and Tuesdays when they are closed and can accommodate 75 persons. He suggested the CDD change its meeting day. Mr. Adams stated Tuesdays are preferred but he would have to ask everyone about their availability.

TENTH ORDER OF BUSINESS

Board Members' Comments/Requests

There were no Board Members' comments or requests.

ELEVENTH ORDER OF BUSINESS

Public Comments

Ms. Houston asked Mr. Adams and Mr. Hasty if they were able to apply for the Federal Emergency Management Agency (FEMA) Hazard Mitigation Grant Program that had an August 29, 2023 deadline. Mr. Adams replied no, as he reviewed the program and noted the deadline to register via FEMA's portal was May 31, 2023.

Discussion ensued regarding FEMA extending the deadline for submittals to August 29, 2023 but it not being indicated on the portal, having Staff proceed with registration in the future since most agencies use this process as a bookmark and the CDD considering engaging consultants.

Mr. Buchholz asked for additional information about publishing and other dates related to the RFQ and RFP. Mr. Adams stated that the RFQ will be published within the next few days and other documents will need to be prepared for the RFP.

Discussion ensued regarding the differences between the RFQ for Engineering Design Services and the RFP, publishing requests in The News-Press and inviting qualified contractors to bid.

Mr. Magri asked who is responsible for cleaning up Stock Homes' and WTI's construction debris in the retention ponds on the reserve side, as water levels recede. Mr. Adams stated the CDD's contractor will remove exposed debris once the water levels recede.

Resident Rick Bennington asked about bonds for the commercial property and how Mr. Hasty wants community support demonstrated. Mr. Hasty stated he received a few emails and calls against it and he thinks that the window, in terms of timing, is closing. There will be no issue obtaining a bond to purchase the property as long as the CDD is using it for public benefit.

To proceed, the Board would want a two-thirds in favor vote from property owners. He prefers to discuss the general accepted practice for the CDD with Mr. Haber after the meeting and will have Mr. Adams email it to Mr. Bennington, Mr. Buchholz and Mr. Don Crispen.

Regarding creating a survey on SurveyMonkey, Mr. Haber stated as the CDD is a governmental entity, he provided additional language to include stating "It is ultimately a decision for the Board to proceed on a matter regardless of the outcome of the survey."

Mr. Crispen voiced his belief that, since Mr. Bennington and Mr. Buchholz are in favor of purchasing the commercial property, the CDD should prepare whatever form is needed, be it a survey or otherwise. Mr. Adams stated Mr. Bennington and Mr. Buchholz will take the lead in preparing the questions, the Board will review and approve the language prior to distribution and he and Mr. Hasty will be copied on all responses.

Resident Gregg Christensen asked for the cost to be included in the survey and for it to be broken down by homeowner.

A resident felt that a survey should include other facts about further commercial development, such as if they proceed with the purchase what it might mean to the CDD and the potential economic impact to homeowners.

A resident asked about the CDD's interest for purchasing commercial property. Mr. Adams stated there is none. His other CDDs have purchased property for public benefit to use as a developed or undeveloped park.

A resident voiced his concern that surveys can be manipulated.

A resident noted hearing rumors about the various ways the bond lien might be applied and asked if it would be based on lot size. Mr. Adams replied affirmatively; the current, validated allocation methodology would be utilized.

Mr. Buchholz stated that the Developer will be attending the Lee County Hearing Examiner Meeting on September 21, 2023 and this will be the CDD's last chance to make any points with the Developer before Ms. Donna Marie Collins, Esq., Chief Hearing Examiner, approves redevelopment of the front area, as zoning is already approved.

Discussion ensued between Mr. Crispen and Mr. Buchholz regarding the zoning status, egress and ingress issues possibly stopping the entire project, the Developer not wanting to pay for the stop light and questioning the County's planning, reviews and recommendations as to how to handle the entrance on Wildblue Boulevard.

Mr. Crispen wants the CDD to do its due diligence finding out what the Developer is proposing for Wildblue Boulevard and whether they plan to use the existing facilities. Residents should insist the Developer pay for the stop light, instead of the River Creek and Wildblue HOAs, as stated. He suggested the CDD restrict turns onto Wildblue Boulevard from Corkscrew Road unless the Developer pays for these other items.

Mr. White asked the Board to respond to Mr. Crispen’s comments. Mr. Hasty stated he will research this due to conflicting comments and speak to Mr. Haber. He suggested residents attend the Hearing Examiner Meeting to place their comments on the record, as Ms. Collins will provide her recommendation to the County Commissioners for consideration.

Mr. Buchholz stated he submitted several items to the Commercial Developer for consideration about changing the site triangles, requesting buffers and redirecting the flow of aquifers. The Developer might consider a request to install an entrance out to Corkscrew.

Discussion ensued regarding egress and ingress outside the commercial property still being an issue and the stop light possibly being an impediment to the project.

Mr. Hasty reiterated that he will research these matters, check with the Developer regarding the status of the project, obtain a purchase price, work with Mr. Haber on the survey and determine if a letter from the CDD to the Developer is warranted.

Ms. Houston asked about the CDD being indemnified in the event of an accident. Mr. Adams stated that vendors carry their own insurance. The property is operated by the HOA via an Agreement.

Mr. Barraco corrected an earlier statement whereby, occasionally, certain actions require Lee County Board approvals; he will research if this is one of those situations.

Mr. Hasty asked Mr. Buchholz to email the materials he submitted to the Developer.

Mr. Barraco asked if the statement in the MKA Report stating that the Report was done on behalf of the WildBlue CDD is correct. The answer was no, the CDD did not engage that Engineer; the Report was solicited by WildBlue CDD residents.

TWELFTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Milosevic and seconded by Mr. Meyers, with all in favor, the meeting adjourned at 11:17 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair