

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Regular Meeting on January 4, 2024 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:

Chuck Adams	District Manager
Wes Haber (via telephone)	District Counsel
Frank Savage	District Engineer
John Bucholtz	Resident/Aqua Shore HOA President
Steve Riggs	Resident
Roseanne Duffy	Resident
John Dolan	Resident
Richard Gurney	Resident

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:00 a.m.

Supervisors Meyers, Milosevic, Hasty and Ernst were present. One seat was vacant.

SECOND ORDER OF BUSINESS

Public Comments: Agenda Items (3 Minutes Per Speaker)

Mr. Adams reviewed the protocols for public comments.

Resident John Dolan discussed owning his own law firm in Michigan and experience representing the County on roadway issues. He offered information he presented to the County regarding what he perceives as line-of-sight issues from the gate, southbound towards

Corkscrew Road, and traffic issues near the commercial property that he believes will worsen. The Board directed Staff to include this as a topic on the next meeting agenda.

THIRD ORDER OF BUSINESS

Update: Lake Bank Erosion Repair Project

Mr. Savage reported the following:

- Water levels have receded and the project is ready to commence.
- During the on-site pre-construction meeting, additional washout areas were identified beyond the date of the original investigations in early 2022 and late 2023.
- The additional washout areas were surveyed and incorporated into the schedule exhibit outlining all the contract work and depicts the additional areas differently from the original areas, which was then emailed to Management and Counsel.

Mr. Adams stated that any adjustments to the price will likely be more than the original value of the proposal. He asked Mr. Savage his professional opinion of what he estimates the value will be to include the additional washouts and asked if it is likely \$700,000 or \$750,000. Mr. Savage believes it would certainly be in that range if the intent is to address the previously contracted and the additional washout areas. Mr. Weber stated he is comfortable with the Board considering a change order as long as the contractor is willing to apply the same pricing mechanism used in the original competitively bid contract.

Discussion ensued regarding the \$240,000 originally budgeted, if the overall project might exceed the bidding threshold, treating project as a capital repair, presenting the proposal for the additional areas at the next meeting and proceeding with the project commencing on January 8, 2024, which would extend the schedule.

On MOTION by Mr. Meyers and seconded by Mr. Milosevic, with all in favor, authorizing Staff to proceed with the contractor, utilizing the existing contract and proposal amounts by erosion type to start the project and complete all wash outs as the project moves along and to obtain a proposal for the additional work to present in the next meeting, was approved.

Resident Roseanne Duffy voiced her opinion that Blue Safire's Developer should be responsible for repairing the initial lots discovered with erosion, not the CDD. Mr. Adams asked Mr. Savage to identify the areas that were later than October 2022 on the map.

Resident Steve Riggs asked if Management contacted Nick, at Vista WildBlue Management, about sod remediation once the CDD completes its project. Mr. Adams noted that the CDD will make the repairs at the water's edge on the property lines, within the easement area, and install Bahia sod; property owners will be responsible for making the improvements on their property, at their expense. Homeowners expressed interest in working concurrently with the CDD project to install a secondary drain on their property. A Board Member asked for the sod schedule to be shared with Nick.

Resident Richard Gurney asked about the yard drain homeowners would install on their own property. Mr. Adams recommended homeowners complete the work ahead of the CDD remediation project. He will ask Karen to e-blast detailed information about the drain, which is also posted on the CDD website, and include the recommendation that homeowners repair their own property prior to the CDD commencing its project.

Resident and Aqua Shore HOA President John Bucholtz asked for the project timeline. Mr. Savage will update the contractor about today's discussion and discuss the mobilization timeline. Mr. Adams will email the updated schedule to the Board and have Karen e-blast it, along with the other information he discussed earlier.

Mr. Bucholtz wants the information sooner to convey it to property owners and residents. He stated his understanding that the CDD was originally going to do three weeks of work for \$250,000 but now it might be nine weeks of work for \$750,000. Mr. Adams stated that is correct.

A resident asked if the CDD will be using manhole locks, which is the same approach as at Bonita National. Mr. Adams stated that will be the responsibility of the homeowner, if they so choose; the CDD chose the spread berm option. He stated homeowners on both sides must participate in installing yard drains for mitigation to be effective. Mr. Bucholtz asked Mr. Savage to provide a legible illustration of the drain box to share with homeowners.

FOURTH ORDER OF BUSINESS

**Consideration of J&M Marine Construction
Bid Package for Hurricane Ian Lake Bank
Cleanup Project**

An email from Mr. Barraco outlining the bid opening and results was included for informational purposes.

Mr. Adams noted the J&M Marine Construction (J&M) \$120,100 proposal was lower than the anticipated \$250,000 and J&M did not follow the scheduled values as outlined in the project manual. He asked Mr. Savage if he thinks the proposal was responsive and a responsible amount. Mr. Savage stated that, outside of not following the bid schedule, in the other aspects it seemed to be a very responsive and a reasonable bid. Mr. Adams stated that J&M has done a lot of work in WildBlue, is very familiar with the project and, in the last few years, expressed to him wanting a chance to bid on CDD projects.

Mr. Hasty voiced his concern about J&M not following the bid details or including the actual scope of work in its proposal. Mr. Haber explained the options, under Florida law, that address Mr. Hasty's concerns; these involve deeming the proposal as a non-material irregularity and awarding the contract, subject to clarifying the scope of work with the proposer, since there would be no concern of contesting the contract as there was only one respondent to the advertised bid requests. The other option is to deem the proposal as a material variance, which would make it a non-responsive proposal and thereby enabling the Board to reject the bid and privately negotiate the project. Mr. Savage noted the purpose of the bid was to establish a fixed unit price to remove and dispose of the retaining wall, including change orders. He will need to confirm with J&M that the proposal is based on the map outlined in the Request for Proposals (RFP). Mr. Hasty supported awarding the contract to J&M, as he is familiar with J&M's work, subject to clarifying the scope of work.

On MOTION by Mr. Hasty and seconded by Mr. Meyers, with all in favor, deeming J&M Marine Construction, the sole respondent to the RFP for the Hurricane Ian Lake Bank Cleanup Project, as a qualified respondent and awarding the contract to J&M, subject to Mr. Savage confirming the \$122,100 total cost includes all the properly delineated areas pursuant to the map that is in the RFP, was approved.

Ms. Duffy asked if J&M is the vendor for Vista WildBlue. Mr. Savage, Engineer for Vista WildBlue, stated Vista WildBlue has not taken any retaining wall cleanup actions at this time.

Mr. Bucholtz asked about a performance bond. Mr. Adams stated a performance bond it is not required for this project; it is only required if a certain cost threshold is met.

Mr. Gurney asked about the scope delineating removal between major and minor damage. Mr. Savage stated that the major versus minor classification was done during the original inspection. The project manual for the RFP included additional specifications; removal is a part of identifying any of the areas providing any benefit, therefore it should stay. The RFP was constructed to establish the price based upon the areas identified for that major location; ultimately, the scope is to remove anything that is providing no benefit. Mr. Bucholtz asked for a copy of the RFP package.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2024-01, Relating to the Amendment of the Budget for the Fiscal Year Beginning October 1, 2022 and Ending September 30, 2023; and Providing for an Effective Date

Mr. Adams stated that this budget amendment was prepared in case there are any journal entry adjustments and to avoid a potential finding in the annual audit.

On MOTION by Mr. Ernst and seconded by Mr. Milosevic, with all in favor, Resolution 2024-01, Relating to the Amendment of the Budget for the Fiscal Year Beginning October 1, 2022 and Ending September 30, 2023; and Providing for an Effective Date, was adopted.

SIXTH ORDER OF BUSINESS

Consideration of New Meeting Location

Discussion ensued regarding changing the CDD meeting location to the card room or the restaurant space at WildBlue proper for the remainder of Fiscal Year 2024, meeting on the

same dates as the Vista WildBlue CDD and Tuesday meetings conflicting with Mr. Adams' schedule.

Mr. Adam will contact the Vista WildBlue CDD District Manager to discuss the possibility of conducting both CDD meetings on the same day at the same location and inform accordingly.

SEVENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of October 31, 2023

The financials were accepted.

EIGHTH ORDER OF BUSINESS

Approval of December 7, 2023 Regular Meeting Minutes

On MOTION by Mr. Meyers and seconded by Mr. Ernst, with all in favor, the December 7, 2023 Regular Meeting Minutes, as presented, were approved.

NINTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

Based on the exhibit Mr. Savage emailed outlining the certifications of different phases of the wall, Mr. Haber reviewed statutory deadlines for the CDD to file a latent defect claim and a patent defect claim. If there is potential for a claim, he thinks it would be a latent defect claim.

Mr. Adams left the meeting at 11:00 a.m.

With the March 2024 statute of limitations deadline approaching, Mr. Savage thinks it is in the CDD's best interest to engage a construction litigation attorney to advise how to proceed in order to preserve any right to make a claim. He will give Mr. Hasty a list of construction litigators.

On MOTION by Mr. Hasty and seconded by Mr. Meyers, with all in favor, delegating authority to Mr. Hasty to speak to and, at his discretion, retain a construction litigation attorney to advise the CDD with respect to defect claims, with the focus on a patent versus latent defect claim, was approved.

B. District Engineer: Barraco and Associates, Inc.

Mr. Savage stated that, having crossed referenced the certification exhibits, it does not appear any of the certifications from 2019 incorporate any portions of the wall that were identified as being damaged by Hurricane Ian. He was asked to merge the exhibits and change the coloring to ensure consistency throughout.

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

- **NEXT MEETING DATE: February 1, 2024 at 10:00 A.M.**
 - **QUORUM CHECK**

TENTH ORDER OF BUSINESS

Board Members' Comments/Requests

There were no Board Member' comments or requests.

ELEVENTH ORDER OF BUSINESS

Public Comments Non-Agenda Items (3 Minutes Per Speaker)

Mr. Riggs asked if the County contacted the CDD, as he believes the County is looking for funding sources to install a traffic signal at WildBlue Boulevard and Corkscrew Shores. Mr. Hasty replied no; he thinks the County should contact the Master Developer.

Mr. Adams returned to the meeting at 11:19 a.m.

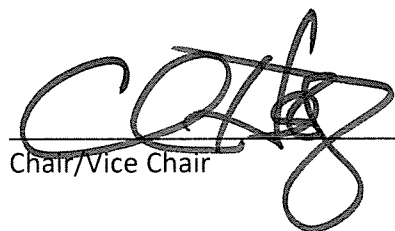
Asked about engaging an engineer to redesign the three walls, Mr. Hasty stated that he executed the updated proposal from Cummins Cederberg today. Mr. Adams distributed a copy of the \$44,400 proposal, which is less than the \$50,000 to \$60,000 originally anticipated. The expectation is to present designs at the next meeting. Mr. Hasty designated Mr. Milosevic to ask Mr. Jordan Cheifet to provide design options and schedule the project sooner, since work at Vista WildBlue is underway.

TWELFTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Ernst and seconded by Mr. Hasty, with all in favor, the meeting adjourned at 11:31 a.m.


Secretary/Assistant Secretary


Chair/Vice Chair