

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Regular Meeting on April 4, 2024 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.

Present:

Christopher Hasty	Chair
Barry Ernst	Vice Chair
Aaron Milosevic	Assistant Secretary

Also present:

Chuck Adams	District Manager
Wes Haber (via telephone)	District Counsel
Carl Barraco	District Engineer
Frank Savage	Barraco and Associates, Inc.
Shane Willis	Field Operations Manager

Residents present:

Dennis Burr	John Buckholtz	John Reese	Steve Russell	Roseanne Duffy
Steve Riggs	Jim Schwartz	Sue Lucente	Mary Laneese	Tom McNamera
Bill Magri	Kristi Houston	Terry Kurth		

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:04 a.m.

Supervisors Hasty, Ernst and Milosevic were present. Supervisor Myers was absent. One seat was vacant.

SECOND ORDER OF BUSINESS

Public Comments: Agenda Items (3 Minutes Per Speaker)

Residents Roseanne Duffy and John Bucholtz deferred their comments until the specific agenda.

THIRD ORDER OF BUSINESS

Updates

- **Lake Bank Erosion Repair Project**

Mr. Adams stated that Crocker is substantially done with the repairs on all CDD areas and only have a couple of days of watering remaining.

Mr. Savage stated that the builders are remediating additional areas that are deemed still under warranty. They have not actively observed the repairs but will now start monitoring them, as the South Florida Water Management District (SFWMD) issued a notice of noncompliance on March 22, 2024 related specifically to the erosion. Mr. Barraco responded on March 29, 2024 indicating that portions of the permit were conveyed to the CDD's Operations and Maintenance (O&M) items. Mr. Adams stated that Lennar is working on the repairs. Mr. Barraco stated that the HOA will maintain the Amenity Center, not the CDD.

- **Retaining Wall Review and Rebuild Options Report**

Mr. Adams stated that Mr. Jordan Schenck, of Cummins Cederberg, is preparing the presentation. Mr. Barraco suggested Mr. Schenck meet with the SFWMD and Lee County to obtain a better understanding of the limitations of what can be done. They hope to provide the cross sections of the different types of options no later than April 15, 2024, which will give the Board time to review before the next meeting.

Resident Steve Russell asked if correcting the erosion issue included installing sod. Mr. Adams replied affirmatively.

Resident John Reese asked if the plans that are expected next week can be posted on the website. Mr. Adams stated that the plans will initially be presented in Staff working product form; the plans will be posted once they are deemed in a condition to post.

Resident Steve Riggs asked if the Board is aware of the builder's remedy, now that the CDD is responsible for lake bank erosion in its entirety. Mr. Adams replied affirmatively; Lennar agreed in September 2022 to mimic the CDD's remedy method of filling the swale and Stock and Pulte elected to install a coco-mat, both of which the District Engineer presented as options.

Mr. Barraco stated that some erosion is expected but it should be minimized and, wherever there is a clear cause, it should be corrected. There will always be some level of maintenance, which is why the State requires legal entities to be responsible for proper maintenance. Mr. Adams stated that the CDD has been setting aside funds for future lake bank

erosions repairs; Hurricane Ian and heavy rainfall accelerated the issue. Regarding whether, if after remediation, there are plans to fill in the sod to the water’s edge, Mr. Adams stated that the answer is no, as that area will be submerged once the water levels rise during the rainy season.

Resident Roseanne Duffy asked if homeowners should fix their gutters before or after the coco-mat is installed. She asked for an expanded diagram, as certain information is illegible. Mr. Adams prefers residents fix the gutters before the coco-mat is installed and suggested keeping a few sets of the diagrams in the office and providing contractors with the PDF file, which is posted on the CDD website.

Resident Bill Magri expressed his belief that Stock Homes laid the drainage pipes on top of the sand. He asked about his request to clean up the construction debris from the lake banks. Mr. Adams stated the pipes should be extended to the water level. He introduced Mr. Shane Willis, the Field Operations Manager, who will initiate a work order with the lake contractor to remove the construction debris.

Resident Kristi Houston asked who will be responsible for maintaining the drains after remediation is completed. Mr. Adams stated that the drains are highly recommended but not a requirement. The CDD will address lank bank erosion issues on an ongoing basis.

Resident John Bucholtz asked if the expectation is to spend the same amount on erosion repairs every three years as is being spent this year. He asked if the CDD can mandate that homeowners install yard drains. Mr. Adams replied no to both questions; the HOA might be able to initiate a mandate, as Lee County has no interest in doing so. The CDD’s actual remediation cost is about \$300,000, which is less than the \$750,000 anticipated.

A resident asked for a copy of Pulte’s contractor schedule.

Discussion ensued regarding homeowners causing erosion due to pool enclosures, broken sprinkler heads.

It was noted that residents should be advised to dechlorinate their pool before draining it to avoid killing the sod and exposing the lake bank, which results in erosion; rip rap is less reliable than installing drains.

FOURTH ORDER OF BUSINESS

**Continued Discussion/Update:
Construction Litigation Regarding
Retaining Wall Repairs**

- **Consideration of Scheduling a Shade Session Meeting**

Mr. Haber noted the following:

- Mr. Gurley, CDD Litigation Counsel, was made aware that service of the complaint against the CDD among other parties is imminent.
- Mr. Gurley believes a Shade Session is warranted but is not ready to schedule one so the request for a Shade Session should remain outstanding. Discussion items will be limited to a potential settlement, erosion and expenditures.

Mr. Haber suggested distributing the filed complaint to the Board. Mr. Hasty stated that he spoke to homeowners and he thinks the reason for filing the complaint is to ensure the CDD is proceeding as expeditiously as possible; there might be a reason why they have not served it yet. He wants the complaint treated as if the CDD has been served and have the filed copy distributed to the Board and to the Developer. The best-case scenario is to obtain bids and schedules so that the CDD never gets served.

Resident Terry Kurth stated that the reason residents/homeowners filed the complaint is so they do not have to deal with possible statute of limitations deadlines and to push the CDD to ensure this matter does not drag on any longer. If the bids go out and costs are identified by mid-June, the residents/homeowners might not serve the complaint; the complaint will “go away” if it is not served within 120 days from the filing date. He thinks the communication between Mr. Hasty and others in the committee has been excellent, not antagonistic, and he wants that to continue.

Mr. Haber agreed with Mr. Hasty’s opinion to treat the complaint as if the CDD was served, with the exception of incurring costs for Mr. Gurley to provide a response, as it is not yet necessary, since the CDD is working towards obtaining bids and it has not yet been served.

Resident Sue Lucente asked homeowner protections against any further damages that might ensue, while the CDD determines the best way to address the repairs. In her opinion, there is a tremendous amount of erosion, drainage and bug issues on her property. She invited Mr. Hasty to inspect her property. She will forward photographs of the area.

Resident Jim Schwartz discussed the amount of erosion loss on his property and asked if the 4” temporary irrigation pipe can be installed below the surface.

Mr. Hasty recapped that the Developer believes the storm caused the wall to fail and does not believe the wall was not built properly, since the Engineer certified that it was. The Developer thinks it is not responsible for paying for the repairs. He noted that the Engineer's Report obtained by the residents/homeowners who filed the complaint and that of the CDD and the Developer vary on the retaining wall issue. The CDD does not have a clear scope to repair CDD property or funding for it and the CDD absolutely cannot repair resident/homeowner private property.

Mr. Kurth pointed out that the homes were built for a category four hurricane but, in his opinion, the wall was built for a category zero. He believes the reason the CDD did not issue bonds to fund the repairs is because the assessment increase would affect builder sales.

Mr. Reese asked for the wall specifications from when the development was in its initial stage, as he thinks there were two deviations that were subsequently made, which many believe were for cost savings. He thinks the Developer needs to be involved and that the Developer knew full well that they weakened the wall at every stage of the deviation.

Resident Tom McNamera offered to use his drone to inspect damaged sea wall properties.

A resident asked if residents/homeowners are responsible for paying the repairs costs when they did not own CDD property at the time of the hurricane. Mr. Hasty stated that, per the Methodology Report, the CDD can assess homeowners for improvements that benefit the CDD.

FIFTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of February 29, 2024

Mr. Adams presented the Unaudited Financial Statements as of February 29, 2024. He noted the formula in the last column is incorrect and needs to be corrected.

The financials were accepted.

SIXTH ORDER OF BUSINESS

Approval of March 7, 2024 Regular Meeting Minutes

Mr. Adams presented the March 7, 2024 Regular Meeting Minutes. He received edits from Ms. Houston.

The following changes were made:

Lines 23 and 91: Change “Gurney” to “Gurley”

Lines 64, 65 and 114: Change “Stark” to “Stock”

Line 141: Change “Mediterra” to “Bella Terra”

Line 160: Delete “CDD”

Lines 187 and 206: Change “Gurli” to “Gurley”

Line 248: Change “Grandiza” to “Grandeenza”

On MOTION by Mr. Ernst and seconded by Mr. Milosevic, with all in favor, the March 7, 2024 Regular Meeting Minutes, as amended to incorporate these edits and edits previously submitted to Management, were approved.

SEVENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

Mr. Haber discussed his conversation with Land Use Attorney Neil Montgomery about what rights any parties might have to object to the proposed gas station, with the understanding that the zoning for the gas station allows it to double in size. The Development Order that allows the actual construction has not been approved. The parties that have an interest in the property will likely have an opportunity to play a role in whether that consent is granted. He is obtaining a copy of the site plan from Mr. Barraco to send to Mr. Montgomery.

Mr. Haber and Mr. Barraco responded to questions noting Lennar or the HOA should be added as a party since they will be listed on the right-of-way plat; this will require the commercial property to ask permission to modify the front entrance. The CDD will be a party in the case of stormwater modifications. They explained the dewatering process.

B. District Engineer: Barraco and Associates, Inc.

Mr. Barraco stated that the water permit issued last month is for storage tanks, which is meaningless until receipt of approvals from the County to build what they want to build.

Mr. Bucholtz asked for the CDD’s Design Engineer’s contract for the retaining wall.

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

Mr. Adams distributed and presented the Synovus Line of Credit (LOC) Term Sheet for the Lake Bank Erosion Repair Project and the Retaining Wall Replacement Project.

Asked if the Developer provided any funding for WildBlue Lake and Vista Blue Lake, Mr. Hasty stated that he expects to receive some funds but the amount has not been decided on yet.

On MOTION by Mr. Ernst and seconded by Mr. Milosevic, with all in favor, the Synovus Taxable Non-Revolving Line of Credit, in the not-to-exceed amount of \$300,000, authorizing the Staff and Chair to work through all legal documents and authorizing the Chair to execute all documents to close the loan, were approved.

- **NEXT MEETING DATE: May 2, 2024 at 10:00 AM**
 - **QUORUM CHECK**

EIGHTH ORDER OF BUSINESS

Board Members' Comments/Requests

There were no Board Members' comments or requests.

NINTH ORDER OF BUSINESS

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

Resident Mary Laneese asked who should be involved in funding the traffic signal. Mr. Adams stated that the CDD is not legally obligated but the County Representative indicated that the WildBlue CDD should participate; if the CDD decides to participate, then the CDD's portion should be included in the future financing. Mr. Hasty will mention this to the Developer.

TENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Milosevic and seconded by Mr. Ernst, with all in favor, the meeting adjourned at 12:03 a.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair