

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District will hold a Public Hearing and Regular Meeting on September 5, 2024 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.

Present:

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| Christopher Hasty | Chair |
| David Meyers | Vice Chair |
| Aaron Milosevic | Assistant Secretary |

Also present:

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| Chuck Adams | District Manager |
| Shane Willis | Operations Manager |
| Wes Haber (via telephone) | District Counsel |
| Frank Savage | District Engineer |
| Carl Barraco | Barraco & Associates |
| John Buckholtz | Resident & WildBlue Master Assoc. Board |
| Rick Bennington | Resident & WildBlue Master Assoc. Board |

Residents present:

| | | | |
|----------------|-----------------|-------------|-----------------|
| Kristi Houston | Roseanne Duffy | Mary Lanese | Veronia Trapina |
| Lisa Tilson | Other residents | | |

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:02 a.m. Supervisors Milosevic, Hasty and Meyers were present. Two seats were vacant.

SECOND ORDER OF BUSINESS

Public Comments: Agenda Items (3 Minutes Per Speaker)

Resident Kristi Houston stated that Lee County approved the settlement with Lennar for the Alico property for \$1,360,000, less than Lennar's original \$3.8 million price. She stated that

the reduction in price is allowing the County to be responsible for restoration of the property, as opposed to Lennar. She asked if landscaping will be restored, in kind. Mr. Hasty will review the settlement documents and report his findings; he does not know if the approved settlement is a pre-authorization by the County Board for the County to pay that amount while continuing negotiations.

Resident and WildBlue Master Association Board Member John Buckholtz asked Mr. Barraco if the County creates the restoration design drawings or if they just do their road and the CDD or POA does what is needed to restore the ponds, roadways, etc. Mr. Barraco stated that it is dependent on what was agreed upon in the Settlement Agreement; typically, the Florida Department of Transportation (FDOT) handles everything that is required.

Regarding reducing the pond size, Mr. Savage recalled, from the Engineer’s giving the description of what they were doing as 100% of the pond size and since the actual constructed size of the ponds exceeded that, they now need to restore the pond back to the size required by the permit. The County cannot change the permits, as that would put the CDD into a non-compliance status. Mr. Hasty stated that the County is permitting the right-of-way (ROW) and will have to modify any other adjacent permits that are impacted. Mr. Barraco stated that he would need direction from the Board to review the State’s plans. He pointed out that CDD permits that request modifications require notifying the CDD and the level of service for the roadway, the minimum is a five-year storm; the roads will flood well before the homes, as they were constructed at or above a 100-year storm event level, which is a State requirement.

THIRD ORDER OF BUSINESS

Updates

Mr. Adams stated Items 3A and 3C go together and will be combined on future agendas.

A. Lake Bank Erosion Repair Project

Mr. Savage distributed updated maps of the lake bank and retaining wall easement areas. He pointed to the notation on the maps indicating “These are draft exhibits for the September 5, 2024 meeting and that the information presented today is provided to show the progress made and for discussion purposes only, it is not intended to be binding in any way, as it is not ready for mass distribution.”

Mr. Savage highlighted the following:

- The goal of the cover page is to capture all the identified erosion spanning the CDD and the surface water management lake on a single sheet.
- The additional purpose is to identify the intended party responsible for remediating those conditions, which he is still refining and verifying.
- All the subsequent pages of the Exhibit first show the pieces that are identified as being the builder's obligations for associating with this, per a prior Agreement and the subsequent pages to that are the CDD's obligations.
- All the linear erosion identified on the map is categorized under the CDD's obligation to remediate, as that occurs from tidal surge, wave action.
- All the localized erosion areas identified on the map, such as washouts, are obligations that will vary based on the Settlement Agreement; most cases are orchestrated on private property.
- Notes 4A and 4B delineate locations where washouts are occurring at the interface between a CDD obligation and a builder obligation.
- Localized erosion was identified, such as washouts occurring over previously existing linear erosion. Considering the existing linear erosion that was previously identified and then, subsequently, there was a localized washout that has been identified. In those cases the localized washouts are also being identified as the builders responsibility, as they have to restore those areas and make it suitable and not be exacerbated by the additional erosion.
- This information is being presented to see the direction of the project and to have a transparent exhibit that can then lead to action and coordination between both the CDD and presumably the builders to commence projects during the dry season.

Mr. Savage asked for any feedback between meetings to be emailed to Mr. Adams to forward him.

Mr. Savage, Mr. Barraco and Mr. Adams responded to questions regarding each builder establishing their own remediation plan, the CDD and the District Engineer managing the process and adding financing for the retaining wall project. It was noted that the delineation between the CDD and Developer is based upon the date of the Developer Agreement, not when the home closed, versus how the damage occurred.

Mr. Savage stated that he will update the maps to address comments he received about readability; he expects to distribute the final version prior to the next meeting. Mr. Barraco pointed out that the CDD is responsible to the State to operate and maintain the easements; it does not matter who is creating the problem and when everything is built, it is important to have a Maintenance Plan.

Asked about tracking conditions over time, Mr. Savage stated that, once the water levels drop, additional layers will be added to the map indicating the conditions prior to the commencement of work.

Regarding who conducts an annual inspection, Mr. Barraco stated that it depends on who the CDD engages. He recommends the CDD conduct inspections at the end of the wet season and at the beginning.

Discussion ensued regarding reconciling discrepancies, clarifying the number of homes the CDD is responsible for, bond issuance, determining which phase is next, layering phases on the map, etc.

Mr. Adams recommends adding routine inspections to the SOLitude Lake Maintenance Contract, once the repairs are completed. Mr. Willis stated that it is in SOLitude's contract to have the structures visually inspected once a year.

Asked if the County will retain maintenance responsibilities for the two inlets in Latitude Lake, Mr. Adams replied affirmatively. Mr. Barraco stated that those inlets drain into the County's stormwater system.

Mr. Savage presented the draft retaining wall map. He highlighted the following:

- The cover page was designed to capture the entirety of the lake, at a glance, and shows what the CDD identified as the three phases.
- The focus initially is on the portions that were identified as being damaged.
- Phases 1 and 2 are generally the damaged portion of the wall, because there are little gaps that were not damaged. Regarding the area most severely impacted by the hurricane, whether to install riprap across the entirety of the north , which was most severely impacted by the hurricane, or try to isolate it to those areas and avoid those portions that were gaps will need to be discussed.

- Regarding a comment from the last meeting indicating that this project could proceed without any additional entitlement work, Mr. Savage clarified that there is no active Lee County Development Order over this work; at a minimum, any work will likely require a new Limited Development Order (LDO), with the understanding that it is more or less reverting to a previously approved section. The initial Phase would have the damaged retaining wall remaining in place. Mr. Barraco stated that the County requires an LDO before asking to do the maintenance work.
- Regarding the southern portion, the minor areas on the southern portion should be identified and verified to the extent it would require riprap as well, or those pieces could be revisited separately.
- Phase 1 would add protection and may or may not be sufficient; therefore, each of the subsequent phases are considered optional phases.
- The Phase 2 option essentially merges the riprap with the existing Cummins Cederberg Section Options 5 and 6.
- This information is to help obtain pricing and dialog if the Phase 1 scope is not sufficient.
- The Cummins Cederberg Report involved putting new retaining walls over the vast majority. Phase 3 shows a few small areas as damaged and recommends looking at those to determine what repairs are necessary. Generally, Phase 3 constitutes the southern undamaged portion and would potentially constitute a retaining wall cap replacement and/or stone addition over the southern portion.

Mr. Savage asked permission to coordinate some details with Cummins Cederberg, such as the requirements for the height of the breakwater, which connects back to their tidal analysis, and the size of the stone.

Mr. Savage and Mr. Barraco responded to questions regarding the breakwater, potential impact to the boat dock, the Phase 3 minor enhancements to the undamaged portion of the wall, etc.

Regarding the breakwater, Mr. Barraco stated that the CDD will have to ask Cummins Cederberg to connect the breakwater to the wall if it is within 5' of the wall, if it is more than that, then construct it separate from the wall.

Asked what can be done now to start protecting property while going through the permit process, Mr. Barraco stated that there is adequate time to install Cummins Cederberg riprap option before the next season; the CDD should consider adding littoral shelves in some areas. He noted the breakwater should start where the steep slope ends.

Mr. Barraco stated that the next steps would be to obtain prices and have Cummins Cederberg work with Mr. Adams in preparing construction plans, which will consist of phases. Outstanding questions to confirm with Cummins Cederberg are the size and availability of local rocks that are adequate for the breakwater, provide a cost analysis and add language in the bid advising of the breakwater and how contractor plans to access the wall.

A concern was voiced about putting the wall back as it was and a request was made to see how Cummins Cederberg will remediate the Deadman’s situations. Mr. Barraco stated that the idea is that no one has designed a retaining wall with a breakwater in place.

A suggestion was made to complete a baseline and, each year, use budgeted funds for wall enhancements to improve the structure.

Discussion ensued regarding the next steps, asking Cummins Cederberg to prepare the scope by next week, wanting the riprap breakwater to be under construction as soon as possible and the funding sources being from a bond issue and a Developer contribution.

B. Retaining Wall Order of Magnitude Pricing for Selected Rebuild Options

This item was presented following the Sixth Order of Business.

C. Updated District Map Regarding CDD Localized Lake Bank Erosion Repairs Responsibility Versus Builders

This item was discussed during Item 3A.

D. Fuel Station Site

This item was presented following the Sixth Order of Business.

FOURTH ORDER OF BUSINESS

Public Hearing on Adoption of Fiscal Year 2024/2025 Budget

A. Affidavit of Publication

B. Consideration of Resolution 2024-08, Relating to the Annual Appropriations and Adopting the Budget(s) for the Fiscal Year Beginning October 1, 2024, and Ending

September 30, 2025; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Adams presented the proposed Fiscal Year 2025 budget. He highlighted any increases, decreases and adjustments, compared to the Fiscal Year 2024 budget, and explained the reasons for any changes. He noted that some of the Engineer’s costs related to Cummins Cederberg, lake bank erosion and the retaining wall will be reimbursable to the CDD. The proposed Fiscal Year 2025 Operations Maintenance (O&M) assessment will decrease slightly compared to Fiscal Year 2024.

Mr. Adams opened the Public Hearing.

No affected property owners or members of the public spoke.

Mr. Adams closed the Public Hearing.

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, Resolution 2024-08, Relating to the Annual Appropriations and Adopting the Budget(s) for the Fiscal Year Beginning October 1, 2024, and Ending September 30, 2025; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

Consideration of Resolution 2024-09, Providing for Funding for the FY 2025 Adopted Budget(s); 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

On MOTION for by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, Resolution 2024-09, Providing for Funding for the FY 2025 Adopted Budget(s); 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.

SIXTH ORDER OF BUSINESS**Acceptance of Unaudited Financial Statements as of July 31, 2024**

Asked why the “Conservaton area fence review/repairs” budget line item exceeds budget, Mr. Adams stated it is because \$95,000 needs to be recoded to the “Conservation area maintenance” line item and also because additional repairs were needed during the year.

Mr. Adams presented the Unaudited Financial Statements as of July 31, 2024. He pointed out that unassigned funds were used to pay Crocker Land Development for the CDD-related lake bank erosion repair projects for localized washouts, as the CDD \$300,000 line of credit to fund this unbudgeted expense is still pending.

The financials were accepted.

▪ **Retaining Wall Order of Magnitude Pricing for Selected Rebuild Options**

This item, previously Item 3B, was presented out of order.

Mr. Haber stated that Lennar’s Counsel called before the meeting to convey Lennar’s willingness to make a substantial money offer towards the repair of the wall, which he conveyed to the CDD’s Litigation Counsel, who advised not to state the specific amount on the record until the CDD has more details regarding the global settlement; any payment will be in exchange for some settlement terms.

Mr. Haber stated that Lennar’s Counsel asked him to convey to the CDD that Lennar believes, based on their discussion with their Counsel and experts, that they have a very strong case with respect to defenses on any claim and that the offer they are making is being made because they want to be a “good Developer” and do right by their customers and residents within the CDD and not because they believe there is a valid claim in the pending litigation or by the CDD or that they are obligated to do so.

Mr. Haber requested a Special meeting in two weeks to discuss Lennar’s proposal and terms; Lennar would like to proceed with any potential payment and settlement relatively quickly. The CDD’s Litigation Counsel suggested not discussing the settlement amount or taking public comments at the Special Meeting.

Mr. Haber agreed with Mr. Adams’ suggestion to continue this meeting to September 19, 2024 to avoid noticing a Special Meeting, subject to amending the agenda. He asked to post the revised agenda on the CDD website.

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, authorizing Staff to amend the agenda to include “Consideration of Lennar’s Proposed Settlement Offer Regarding the Retaining Wall” and post the updated agenda on the CDD website, was approved.

▪ **Fuel Station Site**

This item, previously Item 3D, was presented out of order.

Mr. Barraco stated that he and Mr. Adams spoke to CDD’s Counsel from Lewis, Longman & Walker P.A. (LLW); they filed a petition to challenge the South Florida Water Management District (SFWMD) permit issued for the commercial parcel and an amended petition for a formal administrative hearing. LLW believes the CDD has a chance. He will provide updates. In response to the question of whether resident input will help the situation, Mr. Adams stated that he will have the amended complaint posted on the CDD website.

Mr. Buckholtz stated that the WildBlue Master Association transitioned from a Landowner Board to a Resident Board and, as it is now in control of the roads and gatehouse, the Master Association is requesting the final roadway plans from the Developer to review at the September 9, 2024 meeting. Mr. Hasty stated that the CDD operates the permit that they modified without consulting the Board and are now tapping into the CDD’s system; therefore, the CDD is looking into whether they can force them to comply with certain things.

▪ **District Engineer: Barraco and Associates, Inc.**

This item, previously Item 8B, was presented out of order.

Mr. Barraco stated that he was asked to attend a meeting with Lee County FDOT regarding a traffic signal at Corkscrew Road and Wildblue Boulevard. He will provide an update at the next meeting.

• **Presentation: Potential Landscape Buffer**

Mr. Barraco stated that the gas station plans for the buffer are not available as they are still under review with Lee County; the plans were requested via a Freedom of Information Act (FOIA) request.

Regarding if there are plans for along the top of the lake bank on CDD property, the CDD only has an easement for drainage and would have to request a landscape easement from Pulte for landscaping.

SEVENTH ORDER OF BUSINESS

Approval of August 1, 2024 Regular Meeting Minutes

Mr. Willis presented the August 1, 2024 Regular Meeting Minutes.

A Board Member asked if, above Line 145, there should be a bullet item “Item 3A” citing “Continuation of Lake Bank Erosion Repair Project” to delineate the two topics. Mr. Willis stated that he will listen to the audio and make any necessary changes.

The following change was made:

Line 22: Change “SOLitude” to “resident”

On MOTION by Mr. Milosevic and seconded by Mr. Meyers, with all in favor, the August 1, 2024 Regular Meeting Minutes, as amended and including any additional changes after Staff listens to the audio, were approved.

EIGHTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

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

This item was discussed during Item 3B.

B. District Engineer: Barraco and Associates, Inc.

- **Presentation: Potential Landscape Buffer**

This item was presented following the Sixth Order of Business.

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

- **NEXT MEETING DATE: October 3, 2024 at 10:00 AM**
 - **QUORUM CHECK**

All Supervisors confirmed their attendance at the Continued Meeting to be held on September 19, 2024 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.

NINTH ORDER OF BUSINESS

Board Members' Comments/Requests

There were no Board Members' comments or requests.

TENTH ORDER OF BUSINESS

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

Resident Lisa Tilson asked if the CDD can send the Master Board a revised recommendation before proceeding with the breakwater option, to ensure that the docks they will be approving are correct. Mr. Willis stated that he will have Mr. Savage ask if Cummins Cederberg is including how adding the breakwater is going to affect future dock installations, existing docks and lake views.

Resident Veronica Trapina stated that the HOA rolls listed more than 250 boats.

A resident suggested the landscape permit include installing a fence on the Corkscrew easement. Mr. Barraco commented about obtaining the 20' lake maintenance easement and noted that it will diminish views and ensure privacy of the residents. Mr. Willis stated that the CDD should wait until knowing what the gas station's Limited Development Order (LDO) requires, as it might not be needed.


Resident and WildBlue Master Association Board Member Rick Bennington stated that now that Pulte conveyed the land to the Master Association, he believes they are better suited to handle fencing and landscaping easement matters.

ELEVENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss the meeting recessed at 12:15 p.m., and was continued to September 19, 2024 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.


Secretary/Assistant Secretary


Chair/Vice Chair