

**MINUTES OF MEETING  
WILDBLUE  
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Continued Regular Meeting on September 19, 2024 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.

**Present:**

Christopher Hasty	Chair
David Meyers	Vice Chair
Aaron Milosevic	Assistant Secretary

**Also present:**

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

**Residents in attendance:**

Kristi Houston	Roseanne Duffy	David Harden	Eva Harden	Steve Riggs
John Gallagher	Other residents			

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 10:01 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)**

This item was presented following the Third Order of Business.

**THIRD ORDER OF BUSINESS**

**Discussion: Lennar Retaining Wall Settlement Offer**

Mr. Haber stated that, subsequent to presenting Lennar’s proposed offer at the last meeting, which excluded the terms, he received a “Contribution and Release Agreement” from Lennar’s Counsel and forwarded it to CDD Litigation Counsel. CDD Litigation Counsel reviewed the Agreement and believes the best approach is to hold a Shade Session to discuss the Agreement in more detail.

Mr. Haber stated that the Agreement is viewed as a confidential settlement communication and all related discussions about the offer are viewed as Attorney/Client privilege. He discussed the Florida Statute with regard to the Sunshine Law and Shade Sessions. CDDs can hold Shade Sessions, which are typically held within a public meeting, but limits the parties who can attend a Shade Session for the purpose of discussing subject matters confined to pending litigation the CDD is a party to and strategy sessions related to the litigation and expenditures. Members of the public cannot attend the shade portion of the meeting; however, the Court Reporter will transcribe the Shade Session verbatim and the information from that Shade Session will be made public once the litigation has concluded.

Mr. Haber formally requested a Shade Session to obtain advice regarding the outstanding litigation “Terry Kurth, derivatively on behalf of WildBlue Master Property Association, Inc., versus Lennar Homes, Pulte Home Company, LLC, and a number of other parties including the CDD”.

The notice for the Shade Session will include the Board Members, Mr. Adams, Mr. Haber, CDD Litigation Counsel Chris Fiore and David Gurley and a Court Reporter as the participants.

Scheduling the Shade Session on October 3, 2024, was suggested, which is the same date as the Regular meeting, subject to attendee’s availability and developing the agenda for the regular meeting.

Mr. Haber discussed the advertising requirements for scheduling the Shade Session.

**On MOTION by Mr. Hasty and seconded by Mr. Meyers, with all in favor, authorizing the District Manager to coordinate with District Counsel, Special Litigation Counsel, the Board, and a Court Reporter and schedule a Shade**

**Session, preferably during the October 3, 2024 Regular Meeting, subject to the availability of all parties, or on another agreed upon date, and posting the Shade Session on the CDD website, was approved.**

▪ **Public Comments: Agenda Items (3 Minutes Per Speaker)**

**This item, previously the Second Order of Business was presented out of order.**

No members of the public spoke.

**FOURTH ORDER OF BUSINESS**

**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 October 3, 2024 meeting.

**FIFTH ORDER OF BUSINESS**

**Board Members' Comments/Requests**

Mr. Haber was asked to email Lennar's Contribution and Release Agreement to the Board, which is deemed a privileged and confidential document. Asked how confidentiality works in this instance, Mr. Haber stated that individual Board Members can discuss confidential items, like the Lennar Agreement, solely with Mr. Haber, Mr. Adams or Litigation Counsel outside of a meeting. Board Members were asked to submit their comments about the Agreement to Mr. Haber in advance of the Shade Session.

**SIXTH ORDER OF BUSINESS**

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

A resident asked if Mr. Barraco was able to obtain the order of magnitude pricing. Mr. Savage stated that this is still ongoing, he expects to have them for the upcoming meeting. Mr. Barraco stated he was able to find a source for the riprap close to the project.

A resident asked if there will be a chance to make public comments after Mr. Haber finishes presenting the actual figure. Mr. Adams stated that everything is confidential until, at a minimum, following the upcoming Shade Session.

Resident David Harden thinks there is an urgency to start the project, as water levels have risen and wave action is washing in behind the remnants of the retaining wall behind his home. Mr. Adams stated that Mr. Barraco and Mr. Savage are working on the Project Manual for Phase 1 of the project, which is to stabilize exposed areas first.

Resident Eva Harden asked if the Board will decide and negotiate the terms of the Lennar Agreement in the Shade Session or if homeowners will get to vote on the matter. She hopes the two new “resident” Board Members will be part of the decision-making process. Mr. Adams stated that elected Board Members have a fiduciary duty to serve the interest of the homeowners and will decide this matter in the Shade Session and deliver that information to the public at the appropriate time. It will not include Board Members-Elect John Buchholz and Richard Bennington, who ran unopposed, as their terms will not start until the certification period ends in November, which is at least two weeks following the General Election.

Discussion ensued regarding the purpose of Shade Sessions, what occurs and why the public does not participate in them. It was noted that discussion of negotiation strategy in public meetings is not in the best interest of the CDD since Lennar’s Attorneys could listen to the audio and read the meeting minutes.

Discussion ensued regarding whether the new Board Members can be seated on the Board early so they can participate in the negotiations and possibly deferring negotiations until December, to avoid a perception of a conflict of interest since Lennar employees hold seats on the Board.

In response to a question, Mr. Hasty stated that VistaBlue CDD, in terms of the community and the situation of the storm and the infrastructure, is similar to WildBlue CDD; however, VistaBlue CDD does not have outstanding litigation or residents who voiced concerns that the two Board Members who qualified for the election do not have a conflict of interest.

Mr. Bennington stated there is not a conflict of interest, as he and Mr. Bucholtz are not named parties in the litigation. Mr. Hasty stated that he has been advised not to appoint new Board Members before they are statutorily required to be on the Board.

Mr. Buchholtz asked for the negative to allowing the new Board Members attend the Shade Session and knowing the settlement figure. Mr. Willis stated that, if the settlement amount

is leaked to the community before the litigation is finalized, the Developer could decide to withdraw the offer.

Mr. Harden wants the Board to do its best to impress upon Lennar how hard they are as negotiators on behalf of the CDD.

A resident asked how the Board will be able to negotiate Lennar’s offer without knowing the project cost. She questions why the Board would not be transparent and wait until December to negotiate with Lennar.

Resident John Gallagher agreed with the prior comment and asked how the Board can negotiate without having a definite plan to complete the repairs or know the costs. Mr. Hasty recalled proposing several times that the CDD proceed with VistaBlue CDD’s same process of issuing bonds for the repairs that need to be done and deciding if the CDD would be successful seeking full reimbursement from any and all sources, as it is an expensive process.

A resident asked Mr. Hasty if he knows if Pulte and Stock took a position regarding the litigation or if there were any offers where they would participate in the expense going forward. Mr. Hasty replied no, nothing yet; mostly they have been non-responsive.


Resident Roseanne Duffy asked if the Litigation Attorney is aware of what the Engineer discovered and reported on and whether they will suggest settling monetarily or via repairs. Mr. Hasty replied affirmatively, as construction litigators, they reviewed all the documentation to determine whether it was a patent or latent defect potential of the claim; the terms at this point are unknown.

**SEVENTH ORDER OF BUSINESS**

**Adjournment**

**On MOTION by Mr. Meyers and seconded by Mr. Milosevic, with all in favor, the meeting adjourned at 10:55 a.m.**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair