

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Special Meeting and Attorney-Client Executive Session Shade Meeting on October 30, 2024 at 11:00 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	District Counsel
David Gurley	Special Counsel
Chris Fiore	Special Counsel
Frank Savage	District Engineer
Carl Barraco	Barraco & Associates
John Buckholtz	Resident & WildBlue Master Assoc. Board
Rick Bennington	Resident & WildBlue Master Assoc. Board
Tom Oliveri (via telephone)	Resident

Residents in attendance:

Trisha Koch	Carol Illesio	Steve Vanelly	Kristi Houston	Greg Christensen
Liz Kurnty	Terry Kurth	Mary Lineese	John Gallagher	Tom Mcnamara
Steve Wirth	Ellen Brown	Christi Snyder	Joseph Cerbone	

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 11:04 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)

The Board and Staff introduced themselves.

Resident Steve Wirth stated he observed several death thorns by the lake. He presented a photograph of a rotted front board and voiced his hope that the thorns, littorals and rotted wood will be addressed and that a plan of action will be revealed.

Resident and Master Association Board Member, John Buckholtz, stated another storm occurred since the last CDD meeting and he wants to discuss what was observed. Mr. Adams stated the storm will be discussed during the updates.

Resident Carol Illesio read the following prepared statement from Ms. Barbara Ritter, her neighbor and friend, who could not attend the meeting:

“Hurricane Ian, the so-called 100-year storm, damaged the seawall and caused me and many of my neighbors to lose land. Only two years later, no repairs have been made to the seawall nor the restoration of my land. Hurricane Milton has further damaged my lot, since virtually no seawall has been in place to protect it. It is time to stop studying the problem and to make permanent repairs; the seawall needs to be stronger than the original, in the form of rip-rap and the land we lost needs to be replaced. The CDD needs to authorize these fixes immediately, assess residents and argue about who will reimburse us in separate actions. We cannot wait any longer. This community was built on the idea of a lakes’ community, which is central to Wildblue’s appeal. If the CDD is unable to maintain this basic feature, every home in our community’s real estate value will sink along with our land. Please take action.”

Resident Liz Kurnty concurred with Ms. Ritter’s comments and stated her home was one of the first homes constructed on Blue Safire Drive and Hurricane Ian damaged the seawall, her dock and jet ski. She opined that nothing has been done since then other than people entering her backyard to assess and inspect the seawall. She believes that Hurricane Milton added to the erosion and destruction. As a homeowner of a multi-million-dollar home in the CDD, she thinks it is an absolute disgrace that nothing was done to repair the wall in the two years since the first hurricane and, with every new hurricane season, residents will be anxious about the ongoing erosion and further damage to the seawall, the dock and property because the CDD failed to act.

Resident John Gallagher asked what entity Special Counsel represents and who will be present in the Shade Session. Mr. Adams stated Special Counsel represents the CDD and the

Shade Session is reserved specifically by Statute to the CDD Board, District Manager, District Counsel and Special Counsel; a court reporter will also be present.

Resident Steve Vanelly stated the wall behind his home was slightly damaged by Hurricane Ian but Hurricane Milton was more destructive. He lost his deck, lift and boat. He has no wall and lost 20' of his lot. In his opinion, despite talk of repairs, nothing has been done in two years and it is a shame for residents who invested millions in homes to be treated like this.

Resident Joseph Cerbone stated the seawall was gone before he closed on his home in July of 2023 and he lost approximately 20' of berm and some of his actual land. Part of the fence has been sacrificed because he has dogs and some landscaping. There is also a phlebia from water drainage that is supposed to go to a retention pond across the street and into the lake. He stated he cannot lose any more land and, in his opinion, the repair timeline cannot be nebulous; it must be imminent because repairs take time. Whatever the plan, he thinks it must include using breakwater and backfill to support the drainage, as the pipes are disruptive and sitting free with air under them. His purpose for attending the meeting is to convey a sense of urgency and find out the CDD'S remediation timeline, which he hopes is divulged by the end of the meeting.

Resident Terry Kirth stated the drainage around his home is currently exposed and has come apart. He thinks in excess of a million gallons of surface water has gone into the lake and a brownish tinge is visible close to his dock. He is frustrated with how the CDD and Water Management District have handled the damaged seawall. In his opinion, environmentally bad stewardship has occurred, the situation is unbelievable and there are multiple guilty parties.

▪ **District Counsel: Kutak Rock LLP**

This item, previously Item 11A, was presented out of order.

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

Mr. Haber stated the update is similar to at prior meetings. The plaintiff, to date, has not demanded a formal response or answer from the CDD, as a defendant in the lawsuit. There has been no meaningful progress, vis-à-vis the CDD and the plaintiff. Staff rearranged the agenda to raise that issue because the Shade Session falls within that category. He introduced Special

Litigation Counsels representing the CDD and stated the Shade Session is Statutorily exempt to the Sunshine Law.

▪ **ANNOUNCE ATTORNEY-CLIENT EXECUTIVE SESSION SHADE MEETING/RECESS REGULAR MEETING**

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

Mr. Hasty stated Staff must set the stage for the Shade Session by reading the script, express how the session will be conducted, release all attendees, start the recording, have the Shade Session and then resume the Regular Meeting.

▪ **COMMENCEMENT OF EXECUTIVE SESSION (Closed to the Public by Law)**

- **Executive Session Regarding: Terry Kurth, derivatively on behalf of WildBlue Master Property Owners Association, Inc. v. Lennar Homes, LLC, Pulte Home Company, LLC, SDWB, LLC, SD WildBlue, LLC, WCI Communities, LLC, Barraco and Associates, Inc., Turrell, Hall & Associates, Inc. and WildBlue Community Development District, pending in the Twentieth Judicial Circuit in and for Lee County Florida, Case No. 001775. Pending Litigation**

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

Mr. Haber stated Counsel advised at a prior meeting that a Shade Session was desired and the Board took Counsel's advice. Today's Shade Session was noticed via a published notice, which identifies the following attendees, the CDD Board Members, namely, Aaron Milosevic, Chris Hasty and David Meyers; himself, as District Counsel; Litigation Counsel, namely, David Gurley and Chris Fiore; Chuck Adams, the Chief Administrative Officer and District Manager; and a court reporter. The Attorney-Client portion of the meeting will be transcribed by the court reporter, who is already set up to begin the transcription.

Mr. Hasty read the following prepared statement into the record:

"As Chair, I hereby announce the commencement of the private Attorney-Client Session. The estimated length of the session is 60 minutes, with the names of the individuals mentioned by Mr. Haber. At this time, the Board will go into a private session, the public meeting and phone lines will be temporarily recessed. The public Board meeting will be resumed after the Attorney-Client Session is concluded. The session is hereby commenced."

The Attorney-Client Executive Session commenced at 11:23 a.m.

- **ADJOURN ATTORNEY-CLIENT EXECUTIVE SESSION SHADE MEETING/RECONVENE REGULAR MEETING**

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

Mr. Adams reconvened the Regular Meeting at 12:32 p.m.

- **Discussion: Continue Consideration of Lennar Retaining Wall Settlement Offer**

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

Mr. Haber stated one of the items that Litigation Counsel requested during the Shade Session was to retain the services of a specialized Engineering firm to review the wall, in its current state, with respect to analysis on the offer. Thus, the Board should authorize Litigation Counsel to proceed with the requested actions.

On MOTION by Mr. Hasty and seconded by Mr. Meyers, with all in favor, authorizing Staff to retain a specialized Engineering firm to review the wall and provide an analysis on the Lennar Retaining Wall Settlement Offer, was approved.

THIRD ORDER OF BUSINESS

Updates

A. Lake Bank Erosion Repair Project

Mr. Savage recalled that, at the previous CDD meeting, there were updates to a map that was discussed and recognition that some of the work that was authorized and completed as part of Phase 1, based upon the map, indicated the distinction between CDD and builder washouts. Staff subsequently identified that there were washouts that were identified as CDD which, based on that Agreement, would have been a builder responsibility. Conversely, there were washouts that may have been completed by the builder, during restoration activities, that are the responsibility of the CDD. So, the work is ongoing and Staff will summarize the results, provide it to District Management and District Counsel and report the findings to the Board for further discussion.

Mr. Adams stated the good news is that rainfall has eased and the water levels will decrease and erosion will become easier to identify and repair. In an effort resolve the yard

drainage systems and subsequent discharge from the stormwater pond into the recreational pond behind the homes of Mr. Kirth and Mr. Cerbone, Mr. Adams presented a \$70,000 proposal from MRI to restore the lake bank to its original 4:1 slope and to its original property line. He will facilitate an agreement and anticipates that restoration work will commence in the coming week.

Resident Tom Oliveri stated his house at 17380 Blue Safire Road also lost a significant amount of land, has exposed pipes and needs to be reviewed and addressed.

Mr. Adams stated Staff is primarily addressing the dislodged yard drainage pipe that is acting as a back-drain from the stormwater pond across the street and into the recreational pond. That is the emergency that will be addressed.

In response to Mr. Barraco's question regarding if the contractor will restore the pond banks as the approved lands show, Mr. Adams replied affirmatively. Mr. Barraco stated the Water Management District is aware of all the drainage issues and that the CDD is taking action.

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

Referencing handouts, Mr. Savage presented a Retaining Wall Restoration Pricing Estimate and a Project Manual for Lake Bank Hurricane Ian Restoration, which was requested and drafted. The purpose of the summary table is to try to capture all the options that were understood as being considered based upon the various locations and phasing approach of it. Mr. Haber presented maps for the CDD portion delineating the phases in the cross-sections, which were designed based upon the information in the Needs Analysis in the Report. The documents are for draft and discussion purposes only. In order to authorize any of the work, Staff recommends the involvement of a specialized Marine Engineer.

Mr. Savage and Mr. Barraco responded to questions regarding Phase 1 of the project, an existing permit for the breakwater work, if a final design by Cummins Cederberg is necessary before the work commences, the accuracy of the price estimates, contingencies, the Phase 2 portion of the project and the scope of work.

C. Fuel Station Site

Mr. Barraco stated, the attorneys are essentially going back and forth, amending their complaints, and the authorities have yet to determine if the CDD has standing in the case. Mr. Hasty asked Staff to keep following up on this item.

FOURTH ORDER OF BUSINESS

OPEN REGULAR MEETING

Mr. Adams opened the Regular Session.

FIFTH ORDER OF BUSINESS

**ANNOUNCE ATTORNEY-CLIENT EXECUTIVE
SESSION SHADE MEETING/RECESS
REGULAR MEETING**

This item was presented following the Second Order of Business.

SIXTH ORDER OF BUSINESS

**COMMENCEMENT OF EXECUTIVE SESSION
(Closed to the Public by Law)**

- **Executive Session Regarding: Terry Kurth, derivatively on behalf of WildBlue Master Property Owners Association, Inc. v. Lennar Homes, LLC, Pulte Home Company, LLC, SDWB, LLC, SD WildBlue, LLC, WCI Communities, LLC, Barraco and Associates, Inc., Turrell, Hall & Associates, Inc. and WildBlue Community Development District, pending in the Twentieth Judicial Circuit in and for Lee County Florida, Case No. 001775. Pending Litigation**

This item was presented following the Second Order of Business.

SEVENTH ORDER OF BUSINESS

**ADJOURN ATTORNEY-CLIENT EXECUTIVE
SESSION SHADE MEETING/RECONVENE
REGULAR MEETING**

This item was presented following the Second Order of Business.

EIGHTH ORDER OF BUSINESS

Consideration of Matters Related to Terry Kurth, derivatively on behalf of WildBlue Master Property Owners Association, Inc. v. Lennar Homes, LLC, Pulte Home Company, LLC, SDWB, LLC, SD WildBlue, LLC, WCI Communities, LLC, Barraco and Associates, Inc., Turrell, Hall & Associates, Inc. and WildBlue Community

Development District, pending in the
Twentieth Judicial Circuit in and for Lee
County Florida, Case No. 001775

This item was presented following the Second Order of Business.

NINTH ORDER OF BUSINESS

**Acceptance of Unaudited Financial
Statements as of August 31, 2024**

Mr. Adams presented the Unaudited Financial Statements as of August 31, 2024. The financials were accepted.

TENTH ORDER OF BUSINESS

Approval of Minutes

A. September 5, 2024 Public Hearing and Regular Meeting

The following changes were made:

Line 160: Change “have” to “install”

Line 161: Delete “install the” and insert “option” after “riprap”

Line 87: Change “lineage” to “linear”

Line 90: Change “exasperated” to “exacerbated”

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, the September 5, 2024 Public Hearing and Regular Meeting Minutes, as amended, were approved.

B. September 19, 2024 Continued Regular Meeting

On MOTION by Mr. Hasty and seconded by Mr. Milosevic, with all in favor, the September 19, 2024 Continued Regular Meeting minutes, as presented, were approved.

ELEVENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

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

This item was presented following the Second Order of Business.

Mr. Haber reminded the Board Members to complete their ethics training by December 31, 2024.

B. District Engineer: Barraco and Associates, Inc.

- **Presentation: Potential Landscape Buffer**

Mr. Savage stated the potential landscape buffer, which is connected to the area adjacent to the future commercial parcel, is in the permit process and the updated plans are still under review by the County. He will review the County’s feedback and the proposals made by the commercial property and keep the Board updated. Mr. Barraco stated, since this item is currently under review, the public information request process is complete.

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

- **NEXT MEETING DATE: November 7, 2024 at 10:00 AM [Landowners’ Meeting & Regular Meeting]**
 - **QUORUM CHECK**

Mr. Adams stated the November 7, 2024 meeting will start at 10:00 a.m.

Discussion ensued regarding the start time.

Staff will change and update the start time from 10:00 a.m. to 11:00 a.m.

TWELFTH ORDER OF BUSINESS

Discussion: Continue Consideration of Lennar Retaining Wall Settlement Offer

This item was presented following the Second Order of Business.

THIRTEENTH ORDER OF BUSINESS

Board Members’ Comments/Requests

Asked what if anything needs to be done today to proceed with the riprap for Phase 1, Mr. Hasty stated, based on conversations with Counsel, the Board cannot execute a work proposal for the improvements because the riprap elsewhere is not an emergency situation.

Mr. Barraco suggested authorizing the District Manager to engage Cummins Cederberg to prepare the construction plans. Mr. Adams stated the Board must also consider the financing. He suggested obtaining a Bond Anticipation Note (BAN) with Synovus Bank.

Discussion ensued regarding the pricing in the order of magnitude pricing, how much financing is needed on the BAN, whether to do the rock revetement or the breakwater for Phases 1 and 2, advertising an RFP and a change order with Cummins Cederberg.

On MOTION by Mr. Hasty and seconded by Mr. Meyers, with all in favor, authorizing the District Manager to research facilitating a BAN with Synovus Bank, in a not to exceed amount of \$5 million, was approved.

Mr. Hasty proposed holding meetings every other week, for the next few months, to consider bids for the improvement and remediation work.

On MOTION by Mr. Hasty and seconded by Mr. Meyers, with all in favor, authorizing Staff to schedule meetings on the first and third Thursday of the month, through January 2025, and commencing the December 1, 2024 meeting at 10:00 a.m., and the January 3, 2025 meeting at 1:00 p.m., was approved.

Mr. Barraco stated his staff will write a scope for Cummins Cederberg, forward an addendum, meet with the County and Water Management District officials to ensure permitting and schedule meetings with Cummins Cederberg and Management to advise them on limitations.

FOURTEENTH ORDER OF BUSINESS

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

Mr. Buckholtz stated he called the County and was informed that new Board Members can be seated immediately after Election Day. Mr. Haber stated Chapter 190 provides that new CDD Supervisors can assume office the second Tuesday after the election; meaning November 19, 2024.

Discussion ensued regarding adhering to the Statutory requirement, when to fill the vacancies and potential conflicts of interest with the two new Board Members.

A resident stated he wants the record to reflect that the current Board Members are employed by Lennar and, in his opinion, it might be to their advantage, if residents are dissatisfied with the planned improvements, that the new Supervisors are not welcomed on the Board. Mr. Haber stated any decision made between the CDD and Lennar will occur after November 19, 2024.

Resident Kristi Houston asked about the funding source for the \$70,000 lake bank restoration costs. Mr. Adams stated it will initially come from the Operations and Maintenance (O&M) funds.

Resident Ellen Brown asked for the status of the preserve side erosion repairs. Mr. Adams stated it is part of the reconciliation that Mr. Savage is working on; the repairs will be made during the dry season.

A resident asked for an update on the Alico Road Widening project. Mr. Savage stated no final decisions have been made. There was a Board vote for something but he is not aware of an actual cash settlement.

Resident Tom McNamara asked if assessments will increase because of the planned work. Mr. Adams stated there will not be an increase in the current fiscal year.

Resident Mary Lineese asked about the timing of the specialized engineering report that was recommended by Litigation Counsel. Mr. Gurley noted that Taylor Engineering will be engaged for the project and their work will take approximately four months. Regarding if Taylor Engineering will be provided with previous engineering reports to review, Mr. Gurley replied affirmatively.


Discussion ensued regarding what information from the Shade Session can be discussed, confidential attorney-client privilege regarding offers and agreements with the specialized engineer, reimbursement decisions, discussing design options for Phase 2 and the cleanout process for the box culverts in the canal.

FIFTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Milosevic and seconded by Mr. Hasty, with all in favor, the meeting adjourned at 1:40 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair