

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Regular Meeting on March 6, 2025 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.

Present:

Christopher Hasty	Chair
John Buchholz	Assistant Secretary
Rick Bennington	Assistant Secretary

Also present:

Chuck Adams	District Manager
Shane Willis	Operations Manager
Wes Haber (via telephone)	District Counsel
Frank Savage	District Engineer
Herb Lanese	Supervisor-Appointee
Carl Barraco (via telephone)	Barraco & Associates

Residents present:

Sima Baker	Kristi Huston	Rosanne Duffy	Dennis Bourque	Kathleen O'Connor
Ed Hought	Terry Kurth	Victor Schnur	Tom McNamara	Other Residents

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:01 a.m. Supervisors Bennington, Buchholz and Hasty were present. Supervisors Milosevic and Meyers were absent.

SECOND ORDER OF BUSINESS

Public Comments: Agenda Items (3 Minutes Per Speaker)

Mr. Adams noted the public comments protocols. He stressed the three-minute limit; the Board is not required to respond to questions or comments, but might choose to do so.

Resident Rosanne Duffy questioned the \$232,436 "Shoreline/seawall repair and replacements" expenditure. Mr. Adams stated it is related to the emergency repairs across five or six properties. As emergency funds were not set aside for the repairs, the expenditure will be

reimbursed to the CDD when the note is issued. It was noted that operating funds were utilized; the expenditure will be re-coded accordingly. Ms. Duffy thought the repairs were going to be about \$70,000. Mr. Adams stated that was the cost of the first repair; the second one was much more expensive as so much backyard was missing; soil was the most expensive part of the cost.

Resident Kathleen O’Connor reserved her comments for during the meeting.

Resident Kristi Houston asked that phone participants be reminded to mute their phones.

Resident Terry Kurth asked if sand fill is more expensive than riprap and stated he wants to know the average cost of repair per lot. It was noted that riprap is more expensive. Mr. Adams stated that the costs will be better known when the proposals are received. His understanding is that the cost of soil, at least in this area, has increased significantly in recent years.

A Board Member noted that an area with riprap now might not have riprap one year from now, and vice versa. The primary driver on materials is the location of the repair. It is difficult to extrapolate costs based on materials, as contractors might have different sources for materials. A different scale also applies for one mile of work versus a small repair between homes with no staging area and different equipment requirements.

Resident Dennis Burke suggested using concrete dust as a cheaper alternative to sand.

THIRD ORDER OF BUSINESS

Acceptance of Resignation of Fred Aaron Milosevic (Seat 1)

Mr. Adams presented Mr. Fred Aaron Milosevic’s resignation.

On MOTION by Mr. Buchholz and seconded by Mr. Hasty, with all in favor, the resignation of Mr. Fred Aaron Milosevic from Seat 1, was accepted.

▪ **Acceptance of Resignation of David Meyers (Seat 3)**

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

Mr. Adams presented Mr. David Meyers’ resignation.

On MOTION by Mr. Buchholz and seconded by Mr. Hasty, with all in favor, the resignation of Mr. David Meyers from Seat 3, was accepted.

FOURTH ORDER OF BUSINESS

Consider Appointment to Fill Unexpired Term of Seat 1; Term Expires November 2026

Mr. Adams stated letters of interest and resumes were received from Ed Hought, Sima Baker, Herb Lanese and Carol Alessi. A Board Member stated Ms. Alessi withdrew her name.

A Board Member stated he did not receive the email due to a technical error. He thinks the deadline was for the Board's convenience so the Board could nominate another candidate. Mr. Adams stated the deadline sets a level field for those interested and stated his opinion that accepting applicants beyond the deadline is unfair to those candidates who met the deadline.

Discussion ensued regarding the deadline, shorter than usual response time for submissions, the need to preserve a quorum due to a Board Member's upcoming absence and the desire to appoint the most qualified people to the Board. Filling the Seat with the shorter term today and deferring the Seat with the longer term to the next meeting, was suggested.

Mr. Dennis Bourque stated that he submitted his information before the deadline. Mr. Willis searched for his email submission and Mr. Borque provided a copy of his email.

Mr. Adams stated Seat 1 expires in November 2026 and Seat 3 expires in November 2028.

Regarding the email process, Mr. Willis stated that respondents will be advised in the next e-blast to make sure they receive confirmation that their submission was received.

Mr. Ed Hought, Ms. Sima Baker, Mr. Herb Lanese and Mr. Dennis Bourque each discussed their background and interest in serving on the CDD Board and responded to questions from the Board. Each candidate confirmed that they would like to be considered for the additional vacancy on the Board, along with any additional respondents, should they not be appointed today.

Mr. Buchholz thanked the candidates for their willingness to serve. In his opinion, they are highly-qualified and several attend meetings regularly; it will be difficult to make a selection.

Mr. Hasty discussed Board responsibilities, the transition process and Sunshine Law considerations and offered his thoughts and suggestions.

Mr. Bennington nominated Mr. Herbert Lanese to fill Seat 1. No other nominations were made.

On MOTION by Mr. Bennington and seconded by Mr. Buchholz, with all in favor, the appointment of Mr. Herbert Lanese to fill Seat 1, was approved.

- **Administration of Oath of Office (the following will also be provided in a separate package)**

Mr. Adams, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Herbert Lanese. Mr. Adams and Mr. Haber explained the following:

A. Required Ethics Training and Disclosure Filing

- **Sample Form 1 2023/Instructions**

B. Membership, Obligations and Responsibilities

C. Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees

Mr. Willis stated that the e-blast will direct new candidates for the other Seat to email their submissions to WillisS@whhassociates.com. Mr. Adams stated those who already submitted a letter of interest will be carried over for consideration, so there is no requirement to resubmit. The deadline for new submissions will be noon on March 27, 2025.

In response to Mr. Lanese’s inquiry, Mr. Adams discussed the CDD’s General Liability and Directors and Officers coverage.

Mr. Haber cautioned Board Members about use of social media. He explained public record law and recordkeeping; public records requests should be forwarded to District Management right away upon receipt. Board Members should call his office with questions.

FIFTH ORDER OF BUSINESS

Acceptance of Resignation of David Meyers (Seat 3)

This item was presented following the Third Order of Business.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2025-04, Electing and Removing Officers of the District and Providing for an Effective Date

Mr. Adams presented Resolution 2025-04. Mr. Bennington nominated Mr. Buchholz for Chair. Mr. Lanese nominated Mr. Bennington for Vice Chair. No other nominations were made.

The nominated slate is as follows:

John Buchholz	Chair
Richard Bennington	Vice Chair
Chris Hasty	Assistant Secretary
Herbert Lanese	Assistant Secretary

No other nominations were made.

This Resolution removes the following from the Board:

David Meyers	Vice Chair
Fred Aaron Milosevic	Assistant Secretary

The following prior appointments by the Board remain unaffected by this Resolution:

Chuck Adams	Secretary
Craig Wrathell	Assistant Secretary
Craig Wrathell	Treasurer
Jeff Pinder	Assistant Treasurer

On MOTION by Mr. Bennington and seconded by Mr. Lanese, with all in favor, Resolution 2025-04, Electing, as nominated, and Removing Officers of the District and Providing for an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Updates

A. Lake Bank Erosion Repair Project

Mr. Savage stated updating the maps is ongoing. Since the last update, a rough order of magnitude of potential lake bank repair costs was incorporated into a form of a Supplemental Engineer’s Report, so that a funding mechanism can support any action the Board might take. In addition to the work related to the recreational lake, the scope of the surface water management lakes is also incorporated into the funding mechanism.

B. Retaining Wall Restoration

- **Discussion/Consideration of Cummins Cederberg, Inc. Proposal for Marine Engineering and Environmental Consulting Services**

Mr. Adams stated Mr. Buchholz was included on the email from Mr. Jordan Cheifet, of Cummins Cederberg, Inc., (CC), who provided an update. Mr. Buchholz stated that every week,

he pushes Mr. Cheifet and asked if anything else is needed and if the CDD can receive things quicker. Mr. Cheifet is proceeding; he has asked questions but it will still take six to eight weeks. The CDD will receive 60% in four to six weeks and the remainder another month later. He stated Mr. Cheifet was looking for soil reports. He asked Mr. Savage if those were or will be provided.

Mr. Savage stated the soil information was provided, and Mr. Cheifet found it adequate for both the design for the remediation and for Blue Lake.

Mr. Buchholz stated he spoke with Taylor Engineering (Taylor) and Taylor wants to see any soil reports; given the litigation, he does not want to provide information without Board approval. He thinks the reports will help Taylor in its analysis.

Mr. Bennington asked when, if at all, the public can view the Taylor reports. He thinks it is critical to see the reports to understand why the Board made its decision. Mr. Haber stated Litigation Counsel has repeatedly stated that they intentionally kept that report as a draft, which he believes has strategy from a litigation perspective, but he will inform them that a majority of the Board wants to make it public, regardless. He will defer to Litigation Counsel as to whether the Board's desire to share it outweighs Counsel's desire to keep it confidential. Mr. Buchholz stated that Litigation Counsel thinks it is critical in the litigation and suggested a summary be provided to avoid releasing too much detail. Mr. Haber stated that he will defer to Litigation Counsel regarding how much information to share.

Mr. Buchholz stated that there is a wealth of information in the report. He had many discussions and asked many questions. While it is very difficult, he was advised that he is not able to share any of the information that he has received. He stated the information will eventually come out. He is trying to coordinate with all four Engineers and asked Mr. Haber if he can submit information from Mr. Cheifet with Taylor. Mr. Haber stated that information shared at an open meeting is public record, and that can certainly be shared with Taylor, and the Board can approve that. Because both companies are working on the CDD's behalf, he thinks it makes sense for both to have access to the same information. Mr. Buchholz asked for the Board's input and approval.

Mr. Hasty suggested considering why reports or additional information are being given to Taylor, since they are a much more expensive litigation expert witness; i.e., what does the CDD want them to do with it, will they report back, etc. He agrees with Mr. Haber that they should have access to anything provided by the Engineers, such as surveys, as those are public records.

Mr. Buchholz stated, in discussing the retaining wall, Mr. Cheifet asked if the CDD received soil reports; Mr. Cheifet would like to receive the report. Mr. Hasty asked if the request for additional information pertains to the current scope of work. Mr. Buchholz replied affirmatively. The consensus was that the Board approves his sharing the soil reports with Mr. Cheifet.

C. Fuel Station Site

Mr. Adams stated that his deposition is set for April 4, 2025 at Mr. Barraco's office. Five hours was allotted for the deposition, with preparation on March 27, 2025.

Mr. Bennington stated he attended the Commissioner's meeting regarding the traffic lights. At the meeting, he told the Commission that WildBlue CDD will not participate in the traffic light in any way. The Commission wants the CDD to take on \$200,000 of the \$1.4 million cost. Mr. Bennington stated that he advised that, if they accept this, the community across the street is paying the other \$1.2 million. After discussion, the Commission concluded that WildBlue had not come to the table. At this point, the Commission still believes that the CDD is participating; however, this Board will not approve paying, as it would be the Master, since they own the road.

It was noted that, technically, Lennar still owns the road, but the intention is for the Master Association to take those parcels.

EIGHTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of January 31, 2025

Mr. Adams presented the Unaudited Financial Statements as of January 31, 2025. Expenses are at 80% of budget, primarily due to the pre-work expenses related to the retaining wall and to the lake bank erosion repairs and emergency repairs. The CDD will reimburse its Operating Fund when the note is taken down; which is anticipated to be in mid-April. Another proposal for an option outside of Synovus Bank is being entertained; it is hoped that BankUnited will submit a proposal with better terms.

Discussion ensued regarding the terms offered by Synovus Bank and BankUnited and the expectation that interest rates will be 4% to 5%.

Mr. Bennington noted the postage and printing cost. He supports only electronic delivery of the agenda and forgoing printed agendas. The Board Members agreed.

Mr. Bennington noted that “Aquatic maintenance” and “Conservation area monitoring and reporting” are over budget. Mr. Adams stated that monitoring costs are higher than anticipated because some of the required monitoring events were not discontinued after the fifth year, as expected, and additional costs will be incurred for an additional year. No expenses were posted in the “Conservation area maintenance” line item yet. SOLitude’s first quarterly invoice for Fiscal Year 2025 was just received, totaling \$78,000.

Regarding “Aquatic maintenance”, Mr. Adams stated it includes all CDD lakes, including the recreational lakes and the stormwater ponds. Lake treatment is primarily related to the stormwater function; a large portion relates to the littoral shelf requirements, which are funded by the CDD. The Amenity Association took on water testing for the recreational water quality side and shares the costs with Vista.

Mr. Bennington asked if buoy placement and maintenance will be part of the delegated authority to the Amenity; he believes there is a safety issue. Mr. Adams stated that is part of the recreational use of the Amenity but there was a time when the CDD acted to replace buoys, identify additional hazards and add more buoys in an emergency right after a hurricane. Following a recent discussion with the Amenity, they realized that it will be their responsibility going forward. It was noted that Mr. Willis discussed this with the Amenity. Mr. Buchholz will follow up with the Amenity attorney and forward information to Mr. Adams and Mr. Willis.

Mr. Lanese asked how he can learn about CDD operations without discussing CDD matters outside of meetings. Mr. Adams and Mr. Willis can serve as a resource and he can visit the CDD website, which includes the past meeting minutes.

Discussion ensued regarding Amenity versus CDD maintenance, the CDD’s responsibility for lakes even when the Amenity performs maintenance, scheduling a workshop, a shade session or a call with Litigation Counsel for the benefit of new CDD Board Members and allowing more time following discussions before decisions must be made. It was noted that workshops must be recorded and transcribed and summary meeting notes must be taken. No decisions can be made at a workshop.

The consensus was to add an informational workshop at the end of the April 3, 2025 meeting, following final Public Comments.

Mr. Adams stated the final cutoff for interested Board Member candidates to submit their information will be March 27, 2025 at noon. Following receipt of submissions, Mr. Willis will forward the submissions to the Board Members for review.

The financials were accepted.

NINTH ORDER OF BUSINESS

Approval of Minutes

A. January 23, 2025 Special Meeting

The following changes were made:

Line 101: Change "Bennington" to "Hasty"

Line 86: Change "he" to "Jordan"

Line 87: Delete "Mr. Cheifet"

On MOTION by Mr. Bennington and seconded by Mr. Buchholz, with all in favor, the January 23, 2025 Special Meeting Minutes, as amended, were approved.

B. February 6, 2025 Regular Meeting

The following changes were made:

Line 107: Insert "to seven" after "two"

Line 125: Change "SWFWMD" to "SFWMMD"

On MOTION by Mr. Bennington and seconded by Mr. Buchholz, with all in favor, the February 6, 2025 Regular Meeting Minutes, as amended, were approved.

TENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

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

Mr. Haber noted that, as directed by the Board, Litigation Counsel provided each of them with a copy of the complaint that was filed. The next pursuit will be to begin settlement

discussions with Lennar as soon as possible. He agrees that a call should be scheduled as soon as possible for the new Board Members to speak with Litigation Counsel regarding the litigation.

B. District Engineer: Barraco and Associates, Inc.

There was no report.

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

- **UPCOMING MEETINGS:**
 - **March 20, 2025 at 1:00 PM [Special Meeting]**
 - **April 3, 2025 at 10:00 AM [Regular Meeting]**
 - **QUORUM CHECK**

ELEVENTH ORDER OF BUSINESS

Board Members’ Comments/Requests

There were no Board Members’ comments or requests.

TWELFTH ORDER OF BUSINESS

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

The Board and Staff responded to questions and discussed the settlement from Lennar, entitlement to the proceeds, transitioning control of the Board to residents, Lennar’s claim of eminent domain, cost of restoration work to be done by Lennar, parcels that Lennar wanted the CDD to accept and responsibility for the wall repairs.

Mr. Haber discussed his belief and recommendation that the CDD’s position should be that either someone else will be responsible for repairing the property or the CDD should be entitled to the funds that were paid for those repairs. He would not say that the CDD is responsible for making the repairs but Lennar is entitled to the payment because they are the owner; he has not discussed that with Lennar, but his expectation is that they would agree. He thinks it is a valid inquiry and the Board should be informed of the result; he and Mr. Adams will make inquiries regarding the status and expectations.

Discussion ensued regarding the previous misconception that the property from Corkscrew up to the gatehouse is CDD property, the belief that the property from Alico to the rear gate is Master Association property, CDD ownership of the ponds and the maintenance easement and the likelihood that both Boards will have responsibility in some way.

Ms. Baker stated the Association's goal following the hurricanes is to move the buoys to their proper places for the least amount of money as quickly as possible. It was noted that these repairs do not fall under SOLitude's lake maintenance contract. Mr. Adams stated that SOLitude might be interested in bidding on the work.

In response to Mr. Bourque's question, Mr. Hasty stated he does not know if Lennar will give the CDD money in light of the lawsuit against them, or if Lennar will just repair the back and not give the money to the CDD, or if they will fold it all in to one resolution. He will inquire. Mr. Bourque asked if a prohibition against using one matter to leverage another exists in Florida.

Asked if Lennar withdrew an offer made two years ago, Mr. Hasty stated that the Board has not received any notice from Lennar that they are withdrawing it. The CDD has not received any of the funds. He speculated that Lennar does not want to seed a war chest to sue themselves; he thinks that is perhaps why the money has not been sent to the CDD; however, the money is not yet needed because the repairs have not begun. Mr. Hasty does not know if Lennar has the money already but he believes, based on Mr. Bennington's statement, that they do; an official inquiry will be made. He stated had the CDD went to the County for the eminent domain action and the money gained would have been significantly reduced compared to Lennar's decision to sue the County.

Resident Kathleen O'Connor thanked the candidates and applicants for their interest in serving on the Board. She recalled Mr. Hasty's comment at a previous meeting that, if a lawsuit is filed, Lennar would probably withdraw the offer. Mr. Hasty stated that he has not heard anything; he noted that there is a lot of posturing during litigation. Mr. Haber stated he has not heard anything. He discussed lawsuit processes and stated he is unsure whether the lawsuit was actually served. The goal is to negotiate. He thinks Lennar is aware of the filing and thinks it likely that Litigation Counsel will be informed promptly. Board Members will receive updates promptly.

Ms. O'Connor thanked Mr. Buchholz and Mr. Bennington for voting in favor of litigation. She thinks that, if Lennar does not offer a reasonable settlement, the CDD is in a good position. She discussed details and documents that will be released through discovery in connection with the development and voiced her opinion that Lennar did nothing since the wall failed almost two and a half years ago, Lennar did not inform those who were buying and that this development sold out faster and at higher prices as a result. She noted that Lennar is a public corporation that

has billions in revenue and net income and voiced her opinion that what the community rightly deserves in compensation to repair the wall is a small amount to Lennar and, if it goes to trial, Lennar will not be happy with the results. She noted that punitive damages could be awarded and urged Lennar to do the right thing. In her opinion, the eminent domain matter is just making the Lennar case worse. She thanked the Board Members for fulfilling their fiduciary duty, thanked Mr. Lanese for his future service and asked that this be passed along to Litigation Counsel.

Mr. Buchholz stated Lennar made an offer but he cannot speak it or the litigation.

Mr. Kurth discussed the need to keep things moving, given the deadlines associated with litigation and the two to seven months needed to receive cost estimates.

Mr. Buchholz stated that there are many factors that he cannot discuss.

It was noted that the litigation and getting to the resolution is separate from the construction timeline and the Board is moving forward to get work done.

Mr. Bennington discussed the construction and Bond Anticipation Note timeline.

Mr. Hasty stated no major update was received from the Engineer but Mr. Savage is working on a project with Mr. Barraco. He cannot conceive 60% of a plan for a riprap cross section on a lake bank slope. Lee County has a typical lake bank cross section slope for riprap. He asked Mr. Barraco to develop something simple that is already a known approximation of the design. He thinks they have five contractors to consult, to ascertain pricing of a typical riprap cross section to develop an approximation while waiting on information from Cummings Cederberg.

Mr. Savage stated that he and Mr. Barraco involved Mr. Cheifet in the process and wants to clarify that what they are producing is for informational purposes, as his firm is not the Design Engineer. They worked with Mr. Cheifet, based on his 10% plans, and tried to refine it for two sections to quantify what percentage of the wall must be fully removed and what percentage can remain in place with a revetment on top of the wall.

Mr. Barraco stated the two sections that people are arguing about is a very minor area measuring between 30' and 40' wide; this area will be excluded from discussion today. The two sections Mr. Savage mentioned were sent to a marine contractor and a site contractor to get estimates of the cost to have the work done by barge and by land. Mr. Hasty asked for the information to be emailed to the Board. Mr. Barraco will email it to Mr. Adams to disseminate.

It was noted that, going forward, these things should be in the Management report.

Mr. Barraco stated that this is provided simply to get some order of magnitude estimates from contractors; it is not construction level at all.

Mr. Hasty stated this conversation is because Cummins Cederberg estimated that it would take six months to produce a riprap cross section. He asked Mr. Barraco to utilize typical Lee County data and noted that contractors will not provide an estimate based on a 10% plan. He stated that the numbers have not been received, and cautioned that, until the numbers are definitive, they should not be discussed in front of the public.

Discussion ensued regarding lack of progress on the other lake, the need to submit something to the South Florida Water Management District (SFWMD) and Fort Myers and how other developments are getting around the 40% rule.

Mr. Barraco stated the 40% rule is a hard and fast rule in Florida. One must look at what is placed and where; it is relative to where the hardened shoreline is, in location to the control elevation of the lake. In a meeting with Mr. Buchholz, the SFWMD reiterated that the 40% hardened shoreline rule is a hard and fast rule.

In response to Mr. Buchholz’s comment that Corkscrew Shores has hardened shoreline around the entire lake, Mr. Barraco stated, if the Board wants, he can investigate but he does not believe their solutions would fit the State’s definition of hardened shoreline. Mr. Buchholz wants to find out how they got that and how they survived the last hurricane. He asked Mr. Barraco to perform a short investigation. Mr. Barraco stated an update will be provided at the next meeting.

Discussion ensued regarding how the two cross sections will allow a volume of riprap to be estimated; this will allow contractors to begin developing estimates.

Resident Paul McNamara asked if the CDD and Mr. Terry Kurth’s derivative lawsuit are combining. Mr. Haber does not believe that is the case at this point; they are on opposite sides of the lawsuit, as the derivative lawsuit names the CDD as the defendant. That would need to be worked through before any joining of efforts can occur. Mr. Kurth stated the last time he spoke with his attorney he was advised that he will speak with the CDD’s Litigation Counsel.

THIRTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Buchholz and seconded by Mr. Bennington, with all in favor, the meeting adjourned at 12:19 p.m.


Secretary/Assistant Secretary


Chair/Vice Chair