

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Regular Meeting and Attorney-Client Shade Session on December 4, 2025 at 10:00 a.m., at the Community Center (Card Room), 18721 WildBlue Blvd., Fort Myers, Florida 33913.

Present:

John Buchholz	Chair
Rick Bennington	Vice Chair
Herbert Lanese	Assistant Secretary
Denis Bourque	Assistant Secretary
Sima Baker	Assistant Secretary

Also present:

Chuck Adams	District Manager
Shane Willis	Operations Manager
Wes Haber (via Zoom/phone)	District Counsel
Frank Savage	District Engineer
Carl Barraco Zoom/phone	Barraco and Associates, Inc.
Christopher Fiore (via Zoom/phone)	Special Counsel
Court Reporter (via Zoom/phone)	

Residents present in person or via Zoom/phone:

Larry Bryan	Jerry O'Malley	Bill Magry	Tom McNamara	Larry Weinstein
Elaine Daly	Brad Bertoia	Henry Alonzo	Bob Finkelstein	Kathleen O'Connor

The names of all attendees, residents and/or members of the public might not appear in the meeting minutes. If the person did not identify themselves, their name was inaudible or their name did not appear in the meeting notes or on a sign in sheet, the name was not listed.

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:02 a.m. All Supervisors were present.

SECOND ORDER OF BUSINESS

Public Comments: Agenda Items (3 Minutes Per Speaker)

Resident Tom McNamara asked about the retaining wall project bids and commencing the project in the dry season. Mr. Adams stated the District Engineer is reviewing the bids received yesterday. Recommendations will be based on the Board approved Evaluation Criteria.

Discussion ensued regarding the project start date, mobilization and completing Phase 1.

Resident Larry Bryan asked if there is a retaining wall timeline to provide to homeowners. Mr. Adams stated the milestone schedule is on the website and updated every few weeks. Limited information about the lawsuit is posted on the website to avoid disclosing strategy information to the opposing parties, which is the purpose of the Shade Sessions.

Resident Larry Weinstein asked why homeowners were not told of Lennar's offer. Mr. Haber stated settlement discussions during mediation are confidential. Mr. Fiore stated the initial offer and general terms can be disclosed but the items discussed in mediation must remain confidential. Mr. Buchholz stated Lennar's pre-mediation settlement offer is \$5 million. Based on the bids received yesterday, the District Engineer's rough estimate for all three phases is \$22 million. They were unable to submit a counteroffer until the bids were received and analyzed.

Board Members responded to questions about potential project overruns, remediation costs from the Marine Engineer ranging from \$22 million to \$30 million for all three phases, Phase I being mostly riprap, the repair plans, and the schedule being posted on the website.

A resident asked how Lennar is responsible for the Phase 3 Pulte Lake repairs. Mr. Adams stated all three Developers are represented in the lawsuit.

Resident Bill Magry thinks the wall designated as Phase 2 does not appear to be damaged. Mr. Buchholz stated the wall is damaged and was deemed defective and susceptible to future damage. Mr. Magry voiced his opinion that the Phase 2 costs are not real expenses.

Resident Henry Alonzo expressed his opinion that the Board is discounting Mr. Magry's comments and asked why. Mr. Buchholz stated that this matter has been addressed over the last two years; he offered to discuss it later in the meeting.

THIRD ORDER OF BUSINESS**ANNOUNCE ATTORNEY-CLIENT SESSION
SHADE MEETING/RECESS REGULAR BOARD
MEETING**

Mr. Haber announced the Attorney-Client Session Shade Meeting. The Shade Meeting acknowledges the CDD is implementing the portion of the Sunshine Law that allows the Board to meet privately with Counsel and the District Manager when the District faces litigation. This is specifically related to Lee County Case No. 001775, outlined in the Fourth Order of Business. The Shade Session was formally requested at a prior meeting and properly noticed. Attendees for the Shade Session will include CDD Board Members; Mr. Haber; Litigation Counsel Chris Fiore; District Management representatives Chuck Adams and Shane Willis; and the Court Reporter.

Mr. Haber recessed the Regular Board Meeting at 10:24 a.m., and announced commencement of the Attorney-Client Session Shade Meeting, which must be confined to settlement negotiations/strategy related to litigation and not disclosed to any third parties.

Mr. Willis disconnected the phone lines and audio recording and in-person members of the public left the meeting room.

FOURTH ORDER OF BUSINESS**COMMENCEMENT OF ATTORNEY-CLIENT SESSION SHADE MEETING (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**

The Executive Session commenced.

FIFTH ORDER OF BUSINESS**ADJOURN ATTORNEY-CLIENT SESSION SHADE MEETING/RECONVENE REGULAR BOARD MEETING**

The Attorney-Client Session Shade Meeting adjourned.

Mr. Willis reconvened the Regular Board Meeting at 11:34 a.m. The phone lines and audio recording were reconnected and the meeting room was opened to the public.

The Regular Meeting recessed for a brief break.

Mr. Adams reconvened the Regular Board Meeting at 11:45 a.m. The same Board Members present at roll call were still present.

Mr. Haber stated that, based on Litigation Counsel's advice and recommendation in the Shade Meeting, the Board accepted the proposed settlement of paying Terry Kruth \$90,000 in exchange for a dismissal of the suit against the CDD and subject to other various terms and conditions to be set forth in a Settlement Agreement between the CDD and Mr. Terry Kurth.

On MOTION by Mr. Bourque and seconded by Mr. Lanese, with all in favor, authorizing a settlement payment of \$90,000 to Terry Kurth in settlement of the above referenced litigation; delegating authority to Mr. Bennington to work with Litigation Counsel to finalize the other related terms and the Settlement

Agreement; and authorizing Mr. Bennington to execute the Settlement Agreement in final form, was approved.

SIXTH ORDER OF BUSINESS**Updates****A. Lake Bank Erosion Repair Project**

- **Downspout Diagram**

B. Retaining Wall Restoration

- **Schedule**

These items were included for informational purposes.

Mr. Savage and Mr. Barraco presented and discussed the following:

- Since the last meeting, additional addendums to the Request for Proposals (RFP) were issued to provide additional clarifications.
- Three bids were received in response to the RFP. After the initial bid opening, an initial bid calculation was prepared and a clean version was circulated to have before mediation.
- It is suggested that the Board review the bids, which are locked in for 120 days from the December 2, 2025 date of receipt. The next steps can be discussed at the next meeting.
- A qualitative update that aligns to the scoring criteria related to means and methods was emailed this morning. It specifies a full water approach.

Mr. Buchholz asked Mr. Adams to email the link to review the bids to the Board, along with Mr. Savage's email, and include this on the December 18, 2025 agenda or the following. Board Members with technical questions should contact the District and Marine Engineers and email general questions to Mr. Adams to consolidate and pass onto both Engineers.

- The contractor bids are based on unit pricing and the measured quality of materials that they place in the field; it is not a lump sum contract and might result in cost overruns.

Mr. Barraco asked if each contractor can be asked about their source of raw materials and if they can observe them. Mr. Haber stated yes, if the CDD is precise in how questions are asked.

Mr. Buchholz asked Mr. Willis to post information related to the wall bid on the website.

- Staff is internally finalizing the Lake Bank Erosion bid to go out this month and bids will be received in January 2026. Updates will be provided at the December 8, 2025 meeting.
- The Retaining Wall Restoration Schedule related to permitting is not updated. County approval of the Administrative Amendment allowing the revetment and marine mattress to be

utilized as an alternative to previously approved alternatives is pending. Mr. Barraco spoke with the South Florida Water Management District (SFWMD) about the resubmittal.

- Resubmission of the Limited Development Order (LDO) related to the construction of the revetment with the marine mattress is pending. Mr. Barraco will contact the County if the LDO is delayed and prevents the CDD from issuing the Notice of Commencement.

C. Fuel Station Site

There was no update.

Mr. Buchholz stated the CDD won its Motion to Dismiss the Counter Claim. The Developer will not receive any fees. Mediation continues and depositions are being scheduled. This litigation is to address water quality and potential flooding behind homes facing the main road.

SEVENTH ORDER OF BUSINESS**Consider Award of Contract for Lake Bank and Wall Remediation Projects**

This item was discussed earlier and is being deferred to the December 18, 2026 meeting.

EIGHTH ORDER OF BUSINESS**Consideration of Resolution 2026-03, Implementing Section 190.006(3), Florida Statutes, and Requesting that the Lee County Supervisor of Elections Conduct the District's General Elections; Providing for Compensation; Setting Forth the Terms of Office; Authorizing Notice of the Qualifying Period; and Providing for Severability and an Effective Date**

Mr. Adams presented Resolution 2026-03. Seats 1 and 2, currently held by Mr. Herbert Lanese and Ms. Sima Baker, respectively, are up for Election at the November 2026 General Election; the candidate qualifying period is from noon on June 8, 2026 to noon on June 12, 2026.

On MOTION by Mr. Bennington and seconded by Mr. Lanese, with all in favor, Resolution 2026-03, Implementing Section 190.006(3), Florida Statutes, and Requesting that the Lee County Supervisor of Elections Conduct the District's General Elections; Providing for Compensation; Setting Forth the Terms of Office; Authorizing Notice of the Qualifying Period; and Providing for Severability and an Effective Date, was adopted.

NINTH ORDER OF BUSINESS**Consideration of Resolution 2026-04, Relating to the Amendment of the Budget**

for the Fiscal Year Beginning October 1, 2024 and Ending September 30, 2025; and Providing for an Effective Date

Mr. Adams presented Resolution 2026-04. This action is necessary because some operational expenditures exceeded budget and it will help avoid a finding in the annual audit.

On MOTION by Mr. Lanese and seconded by Mr. Bennington, with all in favor, Resolution 2026-04, Relating to the Amendment of the Budget for the Fiscal Year Beginning October 1, 2024 and Ending September 30, 2025; and Providing for an Effective Date, was adopted.

TENTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of October 31, 2025

On MOTION by Mr. Bourque and seconded by Mr. Bennington, with all in favor, the Unaudited Financial Statements as of October 31, 2025, were accepted.

ELEVENTH ORDER OF BUSINESS

Approval of Minutes

A. October 16, 2025 Special Board Meeting and Attorney-Client Sessions

The following changes were made, including edits from Ms. O'Connor:

Line 47 and throughout: Change "Safire" to "Sapphire"

Line 62 and throughout: Change "judgement" to "judgment"

Line 68 and throughout: Change "counter claim" to "counterclaim"

Line 82 and throughout: Change "counter-claim" to "counterclaim"

Line 83: Delete "as there is not a legal basis to do so"

On MOTION by Mr. Lanese and seconded by Mr. Bourque, with all in favor, the October 16, 2025 Special Board Meeting and Attorney-Client Sessions Minutes, as amended, were approved.

B. November 6, 2025 Regular Meeting

The following changes were made, including edits from Ms. O'Connor:

Line 58 and throughout: Change "counter suit" to "countersuit"

Line 95: Move agenda title "Downspout Diagram" after "Line 127"

Line 104: Delete ";" there are issues with the contract and anticipated mediation"

Line 208: Change "Ms. O'Connor" to "Ms. Lanese"

Line 210: Change "Halese" to "Alesi"

Line 224: Change "remediation" to "mediation"

Line 226: Change "November" to "December"

On MOTION by Mr. Lanese and seconded by Mr. Bourque, with all in favor, the November 6, 2025 Regular Meeting Minutes, as amended, were approved.

TWELFTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: Kutak Rock LLP

Mr. Haber stated that the Blue Lake CDD publicly noticed a Sunshine Community Meeting involving the Vista Blue CDD that allows two or more of its Board Members to attend and discuss CDD issues similar to what WildBlue CDD is experiencing regarding shoreline repair projects, etc.; however, no actions can be taken by the Board during the community meeting.

To avoid any potential Sunshine Law violation, Mr. Haber recommended issuing a public notice for Community Meetings in the future if the CDD Board wants to attend or assign a representative to attend the meeting on behalf of the Board .

Some Board Members have no interest in attending the meeting and think Vista Blue Board Members who are interested can attend the CDD's publicly noticed meetings.

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

This bullet point item will be removed from future agendas.

B. District Engineer: Barraco and Associates, Inc.

There was no report.

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

- **UPCOMING MEETINGS:**

- **December 18, 2025 at 10:00 AM [Special Meeting and Attorney-Client Sessions]**

Mr. Adams stated the December 18, 2025 meeting is also a Regular Meeting. All Supervisors confirmed their attendance at the December 18, 2025 meeting.

Mr. Haber advised on the appropriateness of conducting the Shade Session on December 18, 2025 if Litigation Counsel has recommendations.

- **January 15, 2026 at 10:00 AM [Regular Meeting]**
 - **QUORUM CHECK**

THIRTEENTH ORDER OF BUSINESS**Board Members' Comments/Requests**

There were no Board Members' comments or requests.

FOURTEENTH ORDER OF BUSINESS**Public Comments Non-Agenda Items (3 Minutes Per Speaker)**

Mr. Magry asked if any of the Kurth lawsuit settlement money goes to the POA. Mr. Haber stated Mr. Kurth will receive the payment; it is then between Mr. Kurth and the POA/HOA as to whether there is any use of that money for any POA purposes. Part of the earlier motion was payment as well as the settlement terms and Release the CDD will receive. He will confirm with Litigation Counsel that the Release included in the negotiations of the Settlement Agreement is broad such that it prevents the POA/HOA from bringing another lawsuit against the CDD, after that payment is made.

Mr. Magry asked the District Engineer why the CDD did not specify the exact source materials rather than the specifications for the certain area. Mr. Barraco stated doing so would have limited bidders tremendously, with the possibility that no bids would be received. Finding the best source is typically left to the contractor. Mr. Barraco responded to Mr. Magry's other questions clarifying that questions to consider asking the bidders can be emailed to Mr. Buchholz. Regarding an earlier comment about potential cost overruns, it is because the contract is not structured as a lump sum amount; rather, the contractor gets a unit price and is paid their unit price for the measured quantity of material that they put out.

Resident Brad Bertoia expressed his and his neighbors' frustration about what they perceive to be the Board's lack of transparency in communicating to residents and asked for improvement in communicating what is going on with the litigation, why the CDD is not interested in accepting Lennar's offer, and when this matter will end. As to transparency, Mr. Adams stated that the transcribed meeting minutes are posted on the website and residents can submit a public records request to receive the audio recording. The Shade Session is closed to the public for the purpose of discussing litigation strategy and is not available until litigation has ended to avoid sharing decisions/strategy with opposing parties.

Mr. Buchholz stated the Board was elected to work on behalf of the CDD's residents and is negotiating with the Developer based on the recent bids and calculating remediation costs, which are upwards of \$20 million to \$30 million for Phases 1, 2 and 3.

Board Members and multiple residents opined on what they believe would be the best next course of action.

Resident Bob Finkelstein asked who determined the quantities in the bids. Mr. Barraco stated that the Marine Engineer prepared plans and his estimates are based on those plans; Barraco & Associates did the same, specific to land work.

A Board Member noted that, when asked, the District Engineer indicated that he would not restore the wall back to the way it was and, if they did, the cost per linear foot costs more than the recommended solution. It was noted that the mediation is to recover funds and is not delaying the project.

Mr. Buchholz stated the Engineer's Report indicates that the Fort Myers Beach hurricane was a Category 5; however, the wind speed that hit WildBlue was no greater than 80 miles per hour, which equates to a Category 1 hurricane. He reviewed the project scope.

Resident Jerry O'Malley asked how the bond is different from a performance bond, if damaged sod in easements will be restored, and if the CDD is liable if it does not repair all three walls. Mr. Adams stated the contractor probably got better rates on the performance bond. Mr. Haber noted the potential exposure if there is significant damage from a new storm; however, the CDD might be able to apply sovereign immunity, which could diminish or remove all liability.

Resident Elaine Daly asked if littorals can be planted in front of the rock revetment instead of the marine mattress to take care of the erosion. Mr. Willis stated only if the Board decides to go against the advice of the District Engineer and Marine Engineer, both of which recommended the marine mattress. Mr. Buchholz stated that the Marine Engineer decided that the first storm will scour out the stones where the mattress will help settle the stones.

Resident Kathleen O'Connor thanked the Board for their efforts to get to this point of completing the retaining wall project. She was not surprised about the project costs since it required sophisticated engineering and noted that the other reason for the litigation is to mitigate the potential environmental damage for the runoff from the fuel station site.

Discussion ensued regarding the information on Facebook posts and residents obtaining correct information by attending CDD meetings rather than from social media.

FIFTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Bourque and seconded by Ms. Baker, with all in favor, the meeting adjourned at 1:25 p.m.
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WILDBLUE CDD



Secretary/Assistant Secretary

December 4, 2025



Chair/Vice Chair