

**MINUTES OF MEETING
WILDBLUE
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the WildBlue Community Development District held a Continued Regular Meeting on January 23, 2026 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
Wes Haber (via Zoom/phone)	District Counsel
John Capasso	B&Z Construction-General Manager
Zach Aldin	B&Z Construction-Managing Partner

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Adams called the meeting to order at 10:00 a.m.

All Supervisors were present.

SECOND ORDER OF BUSINESS

**Informal Phase 1 Lake Bank Remediation
Project Bid Protest Hearing with B&Z**

Mr. Adams stated the purpose of the continued meeting is to hold an informal Project Bid Protest hearing with B&Z who filed a protest regarding the Phase 1 Lake Bank Remediation contract award.

Mr. Haber recapped the Boards action of going out to bid for the Phase 1 Project, evaluating the three responses based on the criteria in the Request for Proposals (RFP) and sending Notice of Award letters. In response to the Notice of Award, B&Z filed a timely Notice of

Protest but, as noted at the prior meeting, the notice excluded the required protest bond. The Board reviewed the Notice of Protest at the last meeting and, along with the explanation, he provided the Board the options, as it relates to how to deal with the protest. The Board ultimately chose to conduct an informal proceeding which is in accordance with the District's Rules of Procedure, when a protest does not raise any issue of material fact. The Board has no obligation to go through a more formal process, which involves doing some level of fact finding; rather, the Board is able to schedule an informal proceeding.

Mr. Haber stated the process going forward will afford B&Z Representatives the opportunity to explain their position as to the protest and the Board will make a determination of how it would like to find, with respect to the award after B&Z's presentation. The Board can ask questions but is not required to respond to any inquiries or questions from B&Z. With respect to the decision, the District has already evaluated the proposals and made an award. As previously noted, B&Z's protest did not include any issue of material facts and did not include any issue of applicable law. B&Z's position was essentially that they believe their proposal was just as good, if not better, than the proposer that was chosen and, as a result, the District should choose them instead of the proposer that was chosen. Mr. Haber stated that is not an adequate reason to overturn the Board's prior decision. To successfully overturn the Board's decision, B&Z would need to show that the winner had a material defect with their proposal and/or that the process that the District followed was flawed in some way. The process that the District followed, as noted, was consistent with the RFP and the CDD, as a unit of government, has wide discretion in making the determination as to who it awards a contract to via the RFP process. The absence of those things mentioned earlier, the Board's prior decision should remain in place. Likewise, as also discussed, the failure to file the protest bond in accordance with the RFP documents in and of itself was adequate to dismiss the protest without the need to be formal today; however, the Board chose to move forward with it to give B&Z an opportunity to speak.

Mr. Buchholz stated the items Mr. Haber just mentioned are the same ones he and B&Z Construction General Manager John Capasso reviewed last week, which resulted in Mr. Capasso requesting this meeting so he can talk to the Board.

Mr. Capasso introduced Managing Partner Zach Aldin and noted he and Mr. Aldin prepared the bid response. He distributed and presented a chronology and supporting documents outlining the key basis for their protest, which did not factor in the Evaluation Criteria as he received that today. He noted the following:

- They have no issue with Kelly Brothers or the other respondents.
- They took issue with the CDD's timing of the letter and meeting the response requirements in a timely manner, given its corporate office having to obtain a protest bond during the holiday season.
- Regarding the process of following the District's Rules of Procedures, he noted the District's letter states "the CDD may request a protest bond," which conflicts with the RFP, that states "you have to include a protest bond." Although the Board accepted the appeal letter, he suggested correcting this in future RFPs.

Mr. Haber stated that a conflict does not exist. The District's Rules of Procedure and the RFP document are consistent.

Mr. Capasso continued as follows:

- Bid Comparison Tabulation: This spreadsheet, along with the chronology, outlines the basis for their protest. He highlighted specific items listed as "Key Advantages of Contracting B&Z" that supports the protest, as follows:

Mobilization: B&Z's mobilization costs versus other contractors.

Lowest Bidder; Lowest price bidder. There is also quality built into their bid, as they procure locally sourced material.

Schedule: B&Z provides the shortest schedule.

Riprap Installation: B&Z is well experienced installing rip rap.

Bonding Capacity: B&Z meets the bonding capacity.

Mr. Aldin voiced his opinion that, out of all six categories in the Evaluation Criteria, Personnel should have been the only category they would have lost on. He provided B&Z's opinion of the scores B&Z should have received in each category against the other bidders and the basis behind those scores, which overall is the basis for the protest.

The Board Members posed questions and Mr. Capasso and Mr. Aldin responded regarding staffing on the west coast, equipment ownership, varying contactors' riprap cost versus installation costs, B&Z being deemed a small business enterprise which has limits in earning, and B&Z having less overhead costs than others.

Mr. Capasso and Mr. Aldin expanded on past experience with similar projects, etc.

Mr. Buchholz stated he wished the explanations provided today were included in B&Z's introduction page, as he believes it might have had an effect on the outcome. He discussed the urgency of starting the project.

A Board Member agreed with Mr. Buchholz's comments and encouraged B&Z to bid on the next phases of the project.

Ms. Baker voiced concerns about project overruns potentially impacting B&Z's revenue limits and therefore being unable to adhere to the project scope. Mr. Aldin stated he exceeded the limit last year; however, they recently raised the cap to \$21 million. At some point, he will exceed the revenue limits and take the step of going from a small business owner to specifically submitting bids for general contracting business.

Discussion ensued regarding why B&Z's letterhead says it is a diving and construction company, the duties of the Indiana office, and the Kelly Brothers bid providing pictures and descriptions of similar jobs along with an equipment list.

Mr. Haber stated the next step is for the Board to initiate a motion and, absent of showing a defect in the Kelly Brothers proposal or a material defect in how the Board reviewed the proposals, the Board's prior determination should stand, as he did not hear anything in the presentation that showed either of those things.

Mr. Buchholz voiced concern that changing the outcome would cause further project delays and potentially initiate protests from Kelly Brothers.

Ms. Baker asked how many projects B&Z has going on and if they are at capacity. Mr. Aldin stated there are five and they are completing an \$11 million project next week. B&Z has 30 employees and about 12 machines they can allocate to the project.

A Board Member voiced their opinion that B&Z's bid did not identify them as a company of substance, compared to what they discussed today. He was suspect as to why the bid was so

much lower than the other respondents. Mr. Aldin agreed and acknowledged the need to spruce up future bid submittals going forward. He discussed the methods used in marking up riprap costs to offset potential change orders.

Mr. Haber stated the CDD would have greater exposure from Kelly Brothers and other respondents if the Board changes course and awards the contract to B&Z, since B&Z's protest does not meet the legal standard for a successful protest, as noted earlier.

A Board Member asked if Mr. Aldin is willing to waive, in writing, B&Z's right to further appeal after today's procedure, if the Board follows through and B&Z does not get the contract. Mr. Aldin replied affirmatively, based on the discussions today as to why B&Z did not win the contract.

In response to a question, Mr. Haber stated the Board is able to meet with the respondents during a CDD meeting; however, questions and answers must be structured to ensure no one is given the opportunity to supplement their package or provide details outside the parameters of the proposal, as that would be in violation of the law.

On MOTION by Mr. Buchholz and seconded by Mr. Bennington, with all in favor, the award of the contract to Kelly Brothers, was ratified; and rejecting the protest filed by B&Z Construction, based on District Counsel's discussion, was approved.

THIRD ORDER OF BUSINESS

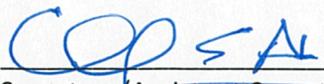
UPCOMING MEETINGS

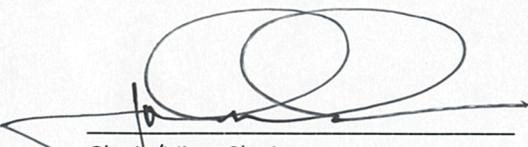
- **February 5, 2026 at 10:00 AM [Regular Meeting]**
- **February 19, 2026 at 10:00 AM [Special Meeting and Attorney-Client Session]**
- **March 5, 2026 at 10:00 AM [Regular Meeting]**

FOURTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Bourque and seconded by Mr. Bennington, with all in favor, the meeting adjourned at 11:06 a.m.


Secretary/Assistant Secretary


Chair/~~Vice Chair~~