

**MINUTES OF MEETING
LAKE POWELL RESIDENTIAL GOLF
COMMUNITY DEVELOPMENT DISTRICT**

A Regular Meeting of the Lake Powell Residential Golf Community Development District's Board of Supervisors was held on Monday, May 21, 2018, at 11:00 a.m., Central Time, at the Shark's Tooth Golf Club, Main Dining Room, 2003 Wild Heron Way, Panama City Beach, Florida 32413.

Present and constituting a quorum were:

| | |
|---------------|---------------------|
| Thomas Balduf | Chair |
| John Ellis | Vice Chair |
| Paula Greer | Assistant Secretary |
| Gary Lorenz | Assistant Secretary |

Also present were:

| | |
|---|---|
| Howard McGaffney (<i>via telephone</i>) | District Manager |
| Mike Burke | District Counsel |
| Robert Carroll | District Engineer |
| Bethany Womack | Ecologist |
| Bruce Sova | Resident |
| Melinda Whitton | Resident |
| Terrie DeRouen-Ortiz | Resident |
| Becky Ferris | Resident, Chair of Architectural Review Board |
| Jim Morgan | Resident |
| David Fleet | Resident |
| Ken Buchholz | Resident and POA President |
| Robert Fletcher | Resident |
| Paul Fox | Resident |
| Bart Barnett | Resident |
| Richard Heck | Resident |

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. McGaffney called the meeting to order at 11:01 a.m., Central Time. All Supervisors were present in person. One seat remained vacant.

SECOND ORDER OF BUSINESS

Discussion/Consideration of Appointment to Fill Unexpired Term of Seat 4

Mr. McGaffney stated the Board must consider filling the unexpired term of Seat 4 and clarified that, despite the Supervisor of Elections identifying Seat 4 as being up for election in November, 2018, Seats 2 and 5 are the Seats that will be up for election, and not Seat 4, which will be up for election in November, 2020.

- A. Ken Buchholz
- B. Becky Ferris
- C. Bob Fletcher
- D. Bruce Sova

Ms. Greer stated that St. Joe did not find it necessary to make a recommendation to fill the vacant seat, as they entrust this Board in the way it is being operated; therefore, in the same vein, she suggested appointment of Mr. Ken Buchholz, POA President, to the Board. Four individuals submitted letters of interest in appointment to Seat 4.

The following nominations to fill Seat 4; term expires November, 2020 were made:

Mr. Lorenz and Mr. Balduf nominated Mr. Bruce Sova, based on his prior involvement with the Firewise program and knowledge of the community.

Ms. Greer nominated Mr. Buchholz. The motion died due to lack of a second.

No other nominations were made.

On MOTION by Mr. Lorenz and seconded by Mr. Balduf, with Mr. Lorenz, Mr. Balduf and Mr. Ellis in favor and Ms. Greer dissenting, the appointment of Mr. Bruce Sova to fill the unexpired term of Seat 4, was approved. (Motion passed 3-1)

THIRD ORDER OF BUSINESS

Administration of Oath of Office to Newly Appointed Supervisor *(the following will be provided in a separate package)*

Mr. McGaffney, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Sova. Mr. McGaffney provided and briefly explained the following items and Mr. Burke provided further clarification:

- A. **Guide to Sunshine Amendment and Code of Ethics for Public Officers and Employees**
- B. **Membership, Obligations and Responsibilities**
- C. **Financial Disclosure Forms**
 - i. **Form 1: Statement of Financial Interests**
 - ii. **Form 1X: Amendment to Form 1, Statement of Financial Interests**
 - iii. **Form 1F: Final Statement of Financial Interests**
- D. **Form 8B – Memorandum of Voting Conflict**
- E. **Consideration of Resolution 2018-02, Electing Officers**

Mr. McGaffney presented Resolution 2018-02. Mr. Lorenz nominated the current slate of officers, as follows, with the addition of Mr. Sova, as an Assistant Secretary:

| | |
|---------------------|------------------|
| Chair | Thomas Balduff |
| Vice Chair | John Ellis |
| Secretary | Craig Wrathell |
| Treasurer | Craig Wrathell |
| Assistant Treasurer | Jeff Pinder |
| Assistant Secretary | Paula Greer |
| Assistant Secretary | Bruce Sova |
| Assistant Secretary | Howard McGaffney |

No other nominations were made.

On MOTION by Mr. Lorenz and seconded by Ms. Greer, with all in favor, Resolution 2018-02, Electing the Officers of the District, as nominated, with the addition of Mr. Sova, as Assistant Secretary, was adopted.

FOURTH ORDER OF BUSINESS

Consent Agenda Items

- A. **Approval of Unaudited Financial Statements as of March 31, 2018**

Mr. McGaffney presented the Unaudited Financial Statements as of March 31, 2018. Assessment revenue collections were at 79%, somewhat lower than the prorated projection. Revenue payments from the Tax Collector were expected soon.

- B. **Approval of January 8, 2018 Regular Meeting Minutes**

Mr. McGaffney presented the January 8, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. The following change was made:

Line 149: Change "Balduf" to "Lorenz"

On MOTION by Mr. Ellis and seconded by Mr. Lorenz, with all in favor, the Consent Agenda Items, including the amendment to the January 8, 2018 Regular Meeting Minutes, were approved.

FIFTH ORDER OF BUSINESS

Staff Reports

A. Ecologist: *Cypress Environmental of Bay County, LLC*

i. Status Report

Ms. Womack stated due to changes in the meeting schedule, the Reports are now presented quarterly, rather than monthly. This Report was from February through April, 2018 and includes Water Quality Reporting. She highlighted the following:

- Water Quality Reporting: The samples revealed no elevated parameters in the water quality, which had not changed since she began sampling; she will eventually request ending sampling. Confirmation from the various agencies to reduce the water quality reporting from semi-annually to annually, was pending. The next water quality sampling is scheduled for November, 2018.
- Sharks Tooth Trail and Dune Lake Trail Stormwater Pond Encroachment: The area did not indicate any potential encroachments into CDD property and, because the areas are not considered an actual vegetated natural buffer area within the encroachment, nor do they indicate an issue with the environmental permit, the Board must determine how to address these types of encroachments.
- Dune Lake Trail Stormwater Pond fallen trees: The Break-N-Ground proposal to cut and remove several fallen pine trees from CDD property was pending; the cost is expected to be nominal. The Board must determine if it wants the stumps ground down; however, it was not included in the proposal, since she did not think it was necessary.
- 2017-18 Mitigation Work Plan: The Mitigation Work Plan was revised to reflect the request from the Florida Forest Service (FFS) that those areas the District is proposing to burn

include mowing the areas first, in the belief there will still be enough fuel to burn. The District's contract burn is listed on its fall/winter schedule, at no charge. Mr. McGaffney stated the proposed Fiscal Year 2019 budget for this line item was reduced from \$60,000 in Fiscal Year 2018 to \$40,000 for Fiscal Year 2019. The costs associated with the current mowing will be booked in the Fiscal Year 2018 budget.

On MOTION by Mr. Lorenz and seconded by Mr. Balduf, with all in favor, authorizing District Management, in coordination with the Ecologist, to approve mitigation, gyro mulch and burn work, in an amount not-to-exceed the budgeted amount, was approved.

In response to monitoring questions, Ms. Womack clarified she plans to submit a request to the Florida Department of Environmental Protection (FDEP) to cease the Water Quality Monitoring Program, since no issues have occurred the last several years. She stated it was not necessary unless an incident or changes occurred, such as the golf course increasing or changing their runoff patterns. If the FDEP rejects that request and if the Board chooses, the District could suggest performing the task every few years. Annual mitigation monitoring will continue. The last cuts for Zones 10 and 11 were in 2014; the plan was to burn but then there was not enough fuel.

➤ Salamander Trail Triangle and 1303 Salamander Trail: Hand cut materials were removed, turned into mulch and reused as a natural material to fill in the ruts to restore areas to a consistent grade, instead of purchasing fill material.

In response to whether the area behind the turf center was cleared by hand, Ms. Womack stated the prior Ecologist originally cleared 40' and she informed the FDEP that the ring of material they showed was not accurate, nor was it feasible or cost wise to cut them out. A response from DEP was pending.

▪ **Discussion: District Irrigation.**

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

Mr. McGaffney stated the intent is for the District to own its own wells for landscaping and irrigation use. Ms. Womack stated the last Irrigation Report showed that, in some areas,

more water was used than the amount originally agreed upon by the golf course. The District had the option to obtain its own wells and to separate from the golf course water, which would require going through the permitting process. This process would require taking an inventory of the pond locations, where the irrigation should be located, and determining the most effective way to begin and whether to put individual wells for each area. Developing wells are not cost prohibitive; however, it must be tested for iron and, if found, the wells must dug deeper. It was in the best interest of the District to begin this process. She suggested the following actions:

- In conjunction with the District Engineer, inventory the locations of the areas.
- Determine the number of areas.
- Determine how those areas can be irrigated, such as installing pumps, and choose the most economical method.

A Board Member suggested approving the necessary funds to begin the preliminary process to determine how many wells are needed, the cost and determine the long-term potential savings. Mr. McGaffney believed that conducting the research, at their hourly rates, was within their scope, if the Board directs the research to be preformed. Based on discussions with Mr. Balduf and Ms. Ferris, the POA Representative managing the Landscaper, he suggested funding this project by using \$100,000 of the \$250,000 budgeted for upgrading the storm water pond pump, which most likely will never happen. Further discussions with the District Engineer are still necessary; however, those funds could be used to make these necessary irrigation improvements, if this project can be permitted. He requested the Board give direction for fact finding activities, at their normal hourly rates; a motion was not necessary since proposals were not submitted.

Ms. Melinda Whitton, a resident, recalled past discussions about water and pesticide use and potentially graduating to xeriscape, slowly bringing it out, cost-wise, to plant native grass that did not need to be cut. Mr. McGaffney stated that, for these types of future projects, such as using more Florida-friendly materials, she should make her recommendations to the POA Representative who, through the District's Management Agreement with the POA, will discuss it with the District. The POA manages the guard and landscape contractors for the District.

Ms. Terrie DeRouen-Ortiz, a resident, asked what killed all the grass along Heron Way. Mr. McGaffney stated this item would be discussed later in the agenda but it most likely was due to lack of irrigation.

*****Ms. Womack left the meeting at 11:45 a.m.*****

B. District Counsel: *Burke Blue*

i. Update: Demand Letter to Marsh Rabbit Run Property Owner

The Demand Letter was provided for informational purposes.

ii. Update: Panama City Beach Water and Sewer Agreement

Mr. Burke stated he continues to work through the legal processes of tying up any loose ends with the City Attorney, and stated they are operating as if they are responsible for it.

▪ **Panhandle Litigation Update**

*****This item was an addition to the agenda.*****

Mr. Burke provided the following litigation update.

➤ **Trial Date: October 4, 2018**

The trial date was set farther out due to accommodate Plaintiff's Counsel, who has a conflict.

➤ The Motion for Summary Judgment (MSJ) will be filed in June and, if the District wins, the Judge would enter a judgment against the Plaintiff.

➤ **New Judge assigned: Judge Braswell**

In response to Mr. Balduf's request for recommendations, if the MSJ is not granted, Mr. Burke stated, during party discussions, the Judge encouraged the parties to continue with mediation. Mediation must be completed 14 days in advance of the trial date. During the trial, Mr. Wrathell will testify on behalf of the District and Mr. Slonina is scheduled to testify. In response to whether the District needs to submit some form of forensic accounting or respond to the issue of the District requiring \$1 million coverage, Mr. Burke stated it was not an issue, since his other governmental Districts required a lot more; it is a contract issue and, without the Plaintiff submitting invoices, the question would be whether the District could be held liable. In response a question of the MSJ being favorable to the District, Mr. Burke stated he delayed preparing the MSJ, due the lengthy process and to keep legal fees down; however, he will

proceed with it now. Mr. Lorenz stated he was also reluctant to contact Mr. Slonina to resolve this matter.

C. District Engineer: *McNeil Carroll Engineering, Inc.*

- i. Nova Engineering and Environmental, LLC, Report for Limited Structural Condition Survey – Three Roadway Concrete Bridge Structures**
- ii. Nova Engineering and Environmental, LLC Report for Limited Structural Condition Survey – Double Barrel Box Culvert**
- iii. Bridge Inspections**

Mr. Carroll provided the following report:

- Nova Engineering and Environmental, LLC (Nova) inspected the wood bridge.

Contractor proposals to bore several into the wood to determine what caused the sediment will be submitted; they know water is going underneath it. The Contractor will make repairs by injecting material underneath it, once they know the amount of materials needed to stop the sediment, and the roadway will then be addressed, or can wait until they resurface it.

- The remaining bridges require minor work, consisting of replacing wood rot, applying sealant and filling in cracks. Bids will include repairs for all three areas.

In response to whether time was an issue regarding rust and the concrete deteriorating, specifically at Covington Bridge, since it is the only way to enter and exit the community and slurry was pumped once before to shore it up, Mr. Carroll stated the Report did not indicate repairs must be addressed immediately. Several bids will be requested; however, he was not certain of the repair costs or time frame to obtain bids, since many area contractors are very busy. The box culverts were repaired once that he knew of; however, those cracks were inside and these injections will be pumped underneath the culvert. It was confirmed that the slab on top of the blacktop, indicated in Photo #19, was sliding but not in danger of collapsing. It was noted the golf cart crossing had a small crack underneath.

Mr. McGaffney stated Mr. Carroll would provide his recommendations but will also coordinate with the contractor, who has extensive experience in how to approach the matter. Between the Fiscal Year 2018 and 2019 budgets, there was \$75,000 available for these repairs and, if costs exceed that figure, funds could be taken from the fund balance reserves; however, over time, more funds must be put aside for future years. The Board directed Mr. Carroll to

tour the area and determine if, aesthetically, the wood could be removed, similar to Sharks Tooth Trail. A Board Member was concerned about the proposals causing further delaying the repairs and that it could result in extra costs. Mr. McGaffney stated that the Board could choose to authorize Staff to proceed with the repairs by setting a not-to-exceed amount and, if costs are below the bid threshold, the bidding process would not be required.

Ms. Becky Ferris, resident and Chair of the Architectural Review Board (ARB), requested that the District consult with the ARB if there are plans to change anything aesthetically in the neighborhood. A Board Member agreed and apologized for the oversight. Mr. Carroll stated a letter will be assigned to each bridge and bids submitted for each one so that there is no lump sum bid for all of them.

▪ **Discussion: District Options Regarding New Development and Damages to District Roads and Landscaping During Construction**

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

Ms. Terrie DeRouen-Ortiz, a resident, asked if complaints were received about contractors damaging the roads during construction and if the District had the ability to bill them for the damages they cause. Mr. McGaffney stated this item would be address shortly.

On MOTION by Mr. Lorenz and seconded by Ms. Greer, with all in favor, authorizing Staff to obtain proposals for the repairs related to the roads and bridges, in a not-to-exceed amount of \$50,000, with the priority being the box culvert, was approved.

Mr. Carroll stated that he toured that site with the site contractor and their Engineer; the fencing project was in progress and sand was all over the road; however, they were put on notice and told they are responsible for any damages they cause. He confirmed that the final approval showed only one exit on each side. He will email the County requesting notification of when the final inspection is scheduled, so that he can assess any damages.

- iv. **Nova Engineering and Environmental, LLC, Invoice 0159336**
- v. **Pump Station Stormwater Inspection Report**

Mr. Carroll stated the pump stations, which were installed during initial construction, were used as a circulating system and the condition of the control panels were rusted and in bad shape; the system was never placed online or had power to it. Mr. McGaffney stated the District Engineer’s staff inspects the stormwater pump station semi-annually to confirm that it is functioning properly; he recommended the District partner with BrightView to clean them out on an as-needed basis. Mr. Carroll stated that FDEP certified the system and never mentioned the pumps not being off. Mr. Balduf confirmed, through Ms. Ferris, that, if the District elects to remove the boards from the bridges, an email to the ARB was sufficient.

D. District Manager: *Wrathell, Hunt and Associates, LLC*

i. 371 Registered Voters in District as of April 15, 2018

Mr. McGaffney reported that there were 371 registered voters residing within the boundaries of the District as of April 15, 2018.

SIXTH ORDER OF BUSINESS

Consideration of Resolution 2018-03, Approving the District’s Proposed Budget for Fiscal Year 2018/2019 and Setting a Public Hearing Thereon Pursuant to Florida Law; Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date

Mr. McGaffney presented Resolution 2018-03. He reviewed the proposed Fiscal Year 2019 budget, including line item adjustments, compared to Fiscal Year 2018. Assessments remained the same as in Fiscal year 2018. The Enterprise Fund assessment was removed and the District is working towards conveying the system over to the City of Panama City Beach.

Mr. McGaffney stated the “Lake & pond Management” line item increase from \$10,000 to \$44,200; six of the 14 ponds were selected, due to the current conditions, to be returned as close to the original 2006 appearance, by removing, replanting and maintaining certain materials, which will add value to the community. He explained the differences in maintaining wet and dry ponds. All projects will be completed in coordination with the POA Representative, Ms. Ferris, who manages the contract and will, most likely, take this over from the District. Discussion ensued regarding irrigation issues, dead grass and the lengthy time it takes to get a

proposal for repairs approved. In response to the question of whether it was in the best interest of the District to use those funds somewhere else, such as replacing dead grass or repairing the irrigation system, Ms. Ferris stated, as a recent volunteer, she was not around long enough to view other issues. Mr. McGaffney stated the District could save funds by reducing the "Mulch & seasonal color" line item, if pine straw was installed in certain areas where it did not cause any Firewise issues and reallocate those funds to irrigation repairs or certain infrastructures or anything that is deemed priority. Discussion ensued regarding determining the order in which projects should be completed. Mr. McGaffney will coordinate with the POA Representative to begin the irrigation project, with replacing dead grass and ponds to follow. He will work with Staff in reviewing the figures in the new contract, reallocating the fund difference from "Legal" to "Irrigation repairs", and present a revised budget at the August meeting.

The following changes were made:

Page 2 and throughout, "Legal": Change "13,000" to "6,200"

*****Mr. Lorenz left the meeting at approximately 12:50 p.m.*****

Mr. McGaffney read the title of Resolution 2018-03.

*****Mr. Lorenz returned to the meeting.*****

On MOTION by Mr. Balduf and seconded by Mr. Ellis, with all in favor, Resolution 2018-03, Approving the District's Proposed Budget for Fiscal Year 2018/2019, as amended, and Setting a Public Hearing Thereon Pursuant to Florida Law for August 27, 2018 at 10:00 a.m., Central Time, at this location, Addressing Transmittal, Posting and Publication Requirements; Addressing Severability; and Providing an Effective Date, was adopted.

SEVENTH ORDER OF BUSINESS

Discussion: District Options Regarding New Development and Damages to District Roads and Landscaping During Construction

This item was presented during the Fifth Order of Business.

EIGHTH ORDER OF BUSINESS

Notice of General Election: November 6, 2018

- **Official Candidate Qualifying Period: Noon, June 18, 2018 – Noon, June 22, 2018**
 - **Candidates May Pre-Qualify Beginning June 4, 2018 at 10:00 A.M.**

Mr. McGaffney discussed the candidate qualifying and pre-qualifying period dates and confirmed the term of office of each seat.

- **Consideration of Resolution 2018-04, Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Bay County Supervisor of Elections to Conduct the District’s General Election [Seats 2 & 5]**

Mr. McGaffney presented Resolution 2018-04.

On MOTION by Ms. Greer and seconded by Mr. Lorenz, with all in favor, Resolution 2018-04, Implementing Section 190.006(3)(A)(2)(C), Florida Statutes, and Instructing the Bay County Supervisors of Elections to Conduct the District’s General Election, was adopted.

NINTH ORDER OF BUSINESS

Discussion: District Irrigation

This it was presented during the Fifth and Sixth Order of Business.

TENTH ORDER OF BUSINESS

Open Items

There were no changes.

ELEVENTH ORDER OF BUSINESS

Public Comments

Ms. Whitton was concerned with the POA Landscaper’s actions, which were now becoming a nuisance to those using the courts and the homeowners around it. The owner is conducting business on CDD property, storing equipment behind the courts and personnel are conversing loudly without any concerns for the homeowners. Mr. Jim Morgan, a resident, confirmed those actions and that Bay Landscaping was also using the water tank area for storage and the homeowners in that area are now being affected, as well as it deterring any potential home buyer. A Board Member confirmed Mr. David Fleet, a resident, was in charge of

POA enforcement and stated this issue should be addressed and enforced by the POA. Mr. McGaffney stated the intent was never for businesses to be run on CDD property. He will review Bay's Agreement with the POA, discuss this issue with the POA Representative and provide an update at the next meeting.

Mr. Morgan offered to help the District in transitioning the irrigation process over to its own pump station.

TWELFTH ORDER OF BUSINESS

Supervisors' Requests

There being no Supervisors' requests, the next item followed.

THIRTEENTH ORDER OF BUSINESS

NEXT MEETING DATE: August 27, 2018 at 10:00 A.M. Central Time

The next meeting will be held on August 27, 2018 at 10:00 a.m., Central Time, at this location.

FOURTEENTH ORDER OF BUSINESS

Adjournment

There being nothing further to discuss, the meeting adjourned.

On MOTION by Mr. Lorenz and seconded by Mr. Greer, with all in favor, the meeting adjourned at 1:06 p.m., Central Time.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair