

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

The Board of Supervisors of the Lake Powell Residential Golf Community Development District held a Public Hearing and Regular Meeting on September 13, 2019, at 9:00 a.m., Central Time, at the Boat House, 1110 Prospect Promenade, Panama City Beach, Florida 32413.

**Present and constituting a quorum were:**

Thomas Balduf (via telephone)	Chair
John Ellis	Vice Chair
Bruce Sova	Assistant Secretary
David Dean	Assistant Secretary
Calvin "Bucky" Starlin	Assistant Secretary

**Also present were:**

Howard McGaffney	District Manager
Mike Burke	District Counsel
Robert Carroll	District Engineer
Bethany Womack	Ecologist
Chuck Malco	Resident
Allan Meyer	Resident
Rusty Lavender	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. McGaffney called the meeting to order at 9:02 a.m. Supervisors Ellis, Sova, Dean and Starlin were present, in person. Supervisor Balduf was attending via telephone.

Mr. Burke stated that Governor De Santis declared a State of Emergency for all 67 counties in Florida, in anticipation of Hurricane Dorian, resulting in the cancellation of the September 4<sup>th</sup> budget public hearing and meeting. Once the storm threat was rescinded, Staff received an order from the Department of Revenue advising of the steps that must be followed to reset the public hearing. The District is within the order and Management followed the truncated time frame in re-advertising for today's public hearing and meeting.

**SECOND ORDER OF BUSINESS**

**Consent Agenda Items**

Mr. McGaffney presented the Consent Agenda Items.

- A. **Acceptance of Unaudited Financial Statements as of July 31, 2019**
- B. **Approval of May 6, 2019 Regular Meeting Minutes**

**On MOTION by Mr. Starlin and seconded by Mr. Sova, with all in favor, the Consent Agenda Items, as presented, were accepted and approved.**

**THIRD ORDER OF BUSINESS**

**Consideration of Resolution 2019-08, Resetting Public Hearing Pursuant to the Department of Revenue’s Emergency Order, Dated September 3, 2019, Implementing Governor Ron DeSantis’ Executive Order Number 19-190, Dated August 29, 2019**

Mr. McGaffney presented Resolution 2019-08.

**On MOTION by Mr. Dean and seconded by Mr. Starlin, with all in favor, Resolution 2019-08, Resetting Public Hearing Pursuant to the Department of Revenue’s Emergency Order, Dated September 3, 2019, Implementing Governor Ron DeSantis’ Executive Order Number 19-190, Dated August 29, 2019, was adopted.**

**FOURTH ORDER OF BUSINESS**

**Rescheduled Public Hearing on Adoption of Fiscal Year 2019/2020 Budget**

- A. **Rescheduled Notice(s)**

The rescheduled notice and affidavit of publication were included for informational purposes.

- B. **Consideration of Resolution 2019-04, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2019, and Ending September 30, 2020; Authorizing Budget Amendments; and Providing an Effective Date**

Mr. McGaffney reviewed the proposed Fiscal Year 2020 budget, including the Per Unit Assessment Summary and Comparison table, on Page 9, the increase in road repairs and the decrease in the landscaping portion of the budget. The Ecologist line item, on Pages 2 and 5 increased from \$27,980 to \$57,980, as the District needs an on-site Field Operations Manager to conduct weekly on-site visits, follow up with contractors, obtain proposals, etc., Per Management's request, Ms. Womack provided a revised proposal with a modified scope of her services, which would increase her compensation by \$30,000 per year; fund balance would be used to pay for those services. Should the Board approve the expenditure, it needs to consider the impact on the budget that is being adopted today. He read the Operations Management scope of work into the record:

To provide field operations management for a 12-month period, reporting to the District Manager, including:

1. CDD operational contract and project management related to District-owned properties, including roads, bridges, stormwater ponds.
2. Coordinating inspections and make recommendations of repairs of District stormwater systems, roads and bridges, in collaboration with the District Engineer.
3. Work with District Staff to solicit proposals and carry out RFPs for District projects and/or repairs as needed.
4. Conduct weekly on-site visits and provide monthly field ops reports to the Board.
5. Work with CDD partners, such as the WHPOA, related to management agreements over District-owned lands as needed.
6. Coordinate and oversee natural disaster preparedness and debris recovery management.
7. Corresponding with residents and/or government agencies as needed within the scope of operations management.

Discussion ensued regarding Ms. Womack's fees, qualifications and familiarity with the District, operational oversight, whether there is a conflict of interest, advertising a Request for Proposals (RFP) versus expanding Ms. Womack's role and the time frame for terminating the agreement. Mr. Dean voiced his preference for weekly field reports instead of monthly. Mr. McGaffney stated that could be arranged and recommended approval of expanding Ms.

Womack's role to include Field Operations Management, in the amount of \$30,000. The following change was made:

Pages 2 and 5, "Ecologist" line items: Increase from \$27,980 to \$57,980

**On MOTION by Mr. Sova and seconded by Mr. Starlin, with all in favor, the public hearing was opened.**

Mr. Chuck Malco, a resident, voiced his skepticism regarding the additional expense for an on-site Operations Manager and asked for specific examples of how it would benefit residents, in terms of the return on their investment. Mr. McGaffney stated the Field Operations Manager would perform the duties mentioned in the scope of services that was previously read. There is a dire need for a "boots-on-the-ground" person in the community to communicate with residents and Staff, interact with contractors and ensure that minor repairs are completed in a timely manner; most communities have a full-time Operations Manager. Discussion ensued regarding road repairs currently underway, stormwater issues, the vegetative natural buffer (VNB) encroachment and budget amendments.

Mr. Alan Meyer, a resident, requested further clarification for the \$30,000 increase in the budget for the field operations management role. Mr. McGaffney explained the history of how the District used to have two employees providing Field Operations work, prior to the transfer of the water and sewer to the City. He further explained that, when this transfer was occurring in 2017, the Board decided to terminate the employment agreements with Mr. Kidwell and Mr. Slonina, with the advisement and understanding from District Management that the District would eventually need to hire someone for Field Operations. Mr. McGaffney stated that the District is now at a point where several projects require an attention to detail that cannot be provided by the District Engineer, District Manager or the POA; it would be more efficiently handled by a Field Operations Manager who reports directly to the District Manager.

Mr. Rusty Lavender, a resident, asked about the CDD conveying landscaping to the POA and how that transfer impacts the budget. Mr. McGaffney explained that, because the transfer of maintenance and funding of the landscaping occurred between two fiscal years, the District's Fiscal Year 2019 budget had 25% of the total annual cost budgeted for in Fiscal Year 2019, with

the understanding that the POA would take over the maintenance and funding in January 2019. The District's budget for Fiscal Year 2020 shows that the landscaping has been fully removed.

**On MOTION by Mr. Starlin and seconded by Mr. Ellis, with all in favor, the public hearing was closed.**

Mr. Balduf remarked that this was the third consecutive year with a decrease in the assessments on the CDD side.

Mr. McGaffney presented Resolution 2019-04.

**On MOTION by Mr. Sova and seconded by Mr. Dean, with all in favor, Resolution 2019-04, Relating to the Annual Appropriations and Adopting the Budget for the Fiscal Year Beginning October 1, 2019, and Ending September 30, 2020; Authorizing Budget Amendments; and Providing an Effective Date, with the changes discussed on the record, to include increasing the Ecologist line item by \$30,000, was adopted.**

**FIFTH ORDER OF BUSINESS**

**Consideration of Resolution 2019-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2019/2020; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date**

Mr. McGaffney presented Resolution 2019-05 and read the title.

**On MOTION by Mr. Ellis and seconded by Mr. Sova, with all in favor Resolution 2019-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2019/2020; Providing for the Collection and Enforcement of Special Assessments; Certifying an Assessment Roll; Providing for Amendments to the Assessment Roll; Providing a Severability Clause; and Providing an Effective Date, was adopted.**

**SIXTH ORDER OF BUSINESS**

**Presentation of Audited Financial Statements for Fiscal Year Ended September 30, 2018, Prepared by Carr, Riggs & Ingram, LLC**

Mr. McGaffney presented Audited Financial Statements for Fiscal Year Ended September 30, 2018. It was a clean audit; there were no findings, deficiencies, recommendations or instances of noncompliance.

A Board Member questioned the year of the audit. Mr. McGaffney stated that the audited financial statements presented annually are always for the prior fiscal year.

**SEVENTH ORDER OF BUSINESS**

**Consideration of Resolution 2019-06, Hereby Accepting the Audited Financial Statements for the Fiscal Year Ended September 30, 2018**

Mr. McGaffney presented Resolution 2019-06.

**On MOTION by Mr. Dean and seconded by Mr. Starlin, with all in favor Resolution 2019-06, Hereby Accepting the Audited Financial Statements for the Fiscal Year Ended September 30, 2018, was adopted.**

**EIGHTH ORDER OF BUSINESS**

**Consideration of Resolution 2019-07, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2019/2020 and Providing for an Effective Date**

Mr. McGaffney presented Resolution 2019-07.

Discussion ensued regarding meeting times and locations. A Board Member asked if there were enough funds in the General Fund to assist in paying for enclosing the Boat House and screening in the room in order to have the meetings there. Mr. Burke stated that the Boat House is a private facility; therefore, as a government entity, the CDD must first find a public use for it, such as holding regular meetings there. Once public funds are expended, the facility must be open to the public. His only concern was if there is a request to rent the facility by an

entity that does not have the right to do so. Mr. Burke would produce a legal opinion on the matter by the next meeting.

**On MOTION by Mr. Ellis and seconded by Mr. Sova, with all in favor Resolution 2019-07, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2019/2020 and Providing for an Effective Date, was adopted.**

**NINTH ORDER OF BUSINESS**

**Update: Encroachment Issues Within the District**

Mr. McGaffney stated that the only outstanding encroachment issue involved the Perkins property.

Ms. Womack reported the following:

- Attempts were still being made to compel Mr. Perkins to fix the VNB encroachment.
- District Counsel sent a letter allowing 30 days to resolve the issue; Mr. Perkins requested an extension, which was surpassed by an additional 30 days due to contractor delays. Mr. Perkins requested additional clarification, beyond the drawing that was provided, to adjust his scope and for more time to resolve the issue.
- The encroachment issue would be monitored until it is resolved.

Mr. Dean and Mr. Starlin discussed Mr. Perkins' history of stonewalling and excuses for not resolving the issue, the risk of the CDD being fined by the Board of Environmental Protection and filing a lawsuit against the homeowner. Mr. Burke would notify Mr. Perkins that the Board has taken action and that District Counsel was preparing a lawsuit against him, which could be avoided by repairing the encroachment, sooner rather than later, and that there would be no more extensions because the suit will be filed.

**On MOTION by Mr. Dean and seconded by Mr. Starlin, with all in favor, authorizing District Counsel to file an injunction regarding the VNB encroachment and to send a letter to the homeowner, was approved.**

- **Staff Reports**

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

- **Update: Roads and Bridges**

**This item, previously Item 12C, was presented out of order.**

Mr. Carroll reported the following:

- Per the District Manager's direction, he contacted the Bay County Public Works Director regarding conveying the roads to the County for ownership and maintenance, similar to the utilities conveyance.
- Research was being conducted to determine if there is an easement from Highway 98 to the guard shack and for the two bridges that could also be potentially conveyed to the County.
- The District Engineer stated that the District previously inspected the bridges and determined that the roadway requires resurfacing to bring it up to the County's standards. Typically, the County accepts roads that have no obstructions in the right-of-way (ROW), are up to their standards for maintenance purposes and that have sufficient drainage.
- The County would advise the CDD of its decision whether to accept the roadway conveyance.

Mr. McGaffney stated that it would be beneficial if the roads were taken over by the County because the District would no longer have to budget for roadway work and it would be part of the County's responsibility to resurface the roads. Mr. McGaffney would coordinate with District Counsel to determine if a portion of the project could be assessed to homeowners.

**On MOTION by Mr. Ellis and seconded by Mr. Starlin, with all in favor authorizing District Staff to take the initial necessary steps to begin the process towards potential transfer/conveyance of the road to the County and to bring this matter back at a later date for full recommendation, was approved.**

Regarding the bridge work, Mr. Carroll stated that the contractor had to stabilize the bridge and it required additional grouting because there were more voids underneath it, which caused a settlement; more work needs to be done on the bridge as far as tying it together but the settlement portion was completed. Ms. Womack reported that a lot of work was done under the bridge, which is not visible unless one goes underneath it. The repairs must be at a

certain level, before the dip in the road, could be repaired. The dip in the road, as well as the washout on Covington Bridge on the southwest corner, would be repaired on Monday. Discussion ensued regarding a fence replacement issue. Regarding the conveyance of water and sewer to Panama City Beach, Mr. Burke stated that the deeds and easements were recorded and all that was needed to complete the process was the Chair or Vice Chair's signature.

**TENTH ORDER OF BUSINESS**

**Discussion/Consideration: Amending the Agreement with Cypress Environmental to Add Field Operations Scope of Services**

Ms. Womack reported the following:

- In addition to other projects, she was overseeing the sharp drop-offs on the roadways and associated dangers; a contractor was scheduled to begin grading, sodding and seeding the roadway from Highway 98 to the golf maintenance area near the drop-off this afternoon.
- No prescribed burns were scheduled for the past season or the upcoming season due to too much timber on the ground and the Division of Forestry has suspended all mitigation. Cuts would be performed as needed to keep fuel loads down.
- The Water Quality Report would be presented in November; it went from being required on a quarterly basis to annually.

Mr. McGaffney stated that the Board is happy with the annual testing.

Regarding the Field Operations Proposal of \$30,000, Ms. Womack stated that outside of Wild Heron, her hourly rate is \$150 per hour but the CDD was currently being billed \$85 per hour, per the originally-negotiated contract, which remains unchanged. She expressed her desire to continue her relationship with the District. The consensus was to continue the current relationship with and expand Ms. Womack's role to include Field Operations Manager services, with the submission of a weekly status report via email. Mr. McGaffney voiced his preference to have the weekly reports forwarded to Management for distribution to the Board and responses from the Board would be conveyed from the District Manager to Ms. Womack. Discussion ensued regarding stocking the ponds with carp and the Florida Fishing and Wildlife (FF&W) permit.

On MOTION by Mr. Dean and seconded by Mr. Ellis, with all in favor, the proposed expanded scope of the Cypress Environmental Professional Services Contract, to include Field Operations Management, and authorizing District Counsel to draft a Form of Agreement, modified to require weekly reports, was approved.

**ELEVENTH ORDER OF BUSINESS**

**Ratification of The Lake Doctors, Inc.,  
Water Management Agreement**

Mr. McGaffney presented the \$1,350 Lake Doctors, Inc., Water Management Agreement to complete work at Linkside and Dune Lake Trail related to the Bladderwort application, which included reporting directly to Ms. Womack. He asked for ratification of Staff's actions to enter into the Agreement.

On MOTION by Mr. Starlin and seconded by Mr. Sova, with all in favor, the Lake Doctors, Inc., Water Management Agreement to complete work at Linkside and Dune Lake Trail, related to the Bladderwort application, in the amount of \$1,350, was ratified.

**TWELFTH ORDER OF BUSINESS**

**Staff Reports**

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

This item was presented during the Tenth Order of Business.
- B. **District Counsel: *Burke Blue***
  - **Update: Water Conveyance to PCB**

This item was presented during the Ninth Order of Business.
- C. **District Engineer: *McNeil Carroll Engineering, Inc.***
  - **Update: Roads and Bridges**

This item was presented during the Ninth Order of Business.
- D. **District Manager: *Wrathell, Hunt and Associates, LLC***

There being no report, the next item followed.

**THIRTEENTH ORDER OF BUSINESS**

**Open Items**

Mr. McGaffney reported the following:

Item A would be removed.

Item B: District Counsel would provide an opinion regarding construction of Amenity Center at a future meeting.

Item C: "Road Resurfacing and Bike Lane" on Wild Heron Way would be a potential discussion item for the next meeting.

**FOURTEENTH ORDER OF BUSINESS**

**Public Comments**

There being no public comments, the next item followed.

**FIFTEENTH ORDER OF BUSINESS**

**Supervisors' Requests**

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

**SIXTEENTH ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION by Mr. Sova and seconded by Mr. Starlin, with all in favor, the meeting adjourned at 11:12 p.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary



Chair/Vice Chair