

**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 August 7, 2023 at 2:00 P.M. (Central Time), at Shark’s Tooth Clubhouse, 2003 Wild Heron Way, Panama City Beach, Florida 32413.

**Present were:**

David Holt	Chair
David Dean	Vice Chair
Jerry Robinson (via telephone)	Assistant Secretary
Thomas Balduf	Assistant Secretary
Frank Self	Assistant Secretary

**Also present were:**

Jamie Sanchez	District Manager
Cindy Cerbone	Wrathell, Hunt and Associates, LLC (WHA)
Mike Burke	District Counsel
Bethany Womack	Ecologist/District Operations Manager

**Residents present were:**

Eddie Levick	Jim Throneberry	Paul Levick	Paul Fox
Kelly Fredrickson	Patrick Richardson	Sherri Mallory	Melinda Whitton
Kenneth Black	David Fleet	Pam Malone	Richard & Donna Lee
Steven Undercoffer	Patti Undercoffer	Becky Ferris	

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Ms. Sanchez called the meeting to order at 2:05 p.m. Supervisors Holt, Dean, Balduf and Self were present, in person. Supervisor Robinson attended via telephone.

**SECOND ORDER OF BUSINESS**

**Public Comments**

No members of the public spoke.

**THIRD ORDER OF BUSINESS**

**Public Hearing on Adoption of Fiscal Year 2023/2024 Budget**

- A. Proof/Affidavit of Publication**
- B. Consideration of Resolution 2023-04, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024; Authorizing Budget Amendments; and Providing an Effective Date**

Ms. Sanchez recalled that the proposed Fiscal Year 2024 budget was previously reviewed and edits were made based on the Board’s recommendations.

**On MOTION by Mr. Holt and seconded by Mr. Self, with all in favor, the Public Hearing was opened.**

No members of the public spoke.

**On MOTION by Mr. Balduf and seconded by Mr. Dean, with all in favor, the Public Hearing was closed.**

Ms. Sanchez presented Resolution 2023-04 and read the title.

**On MOTION by Mr. Holt and seconded by Mr. Dean, with all in favor, the Resolution 2023-04, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2023, and Ending September 30, 2024; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.**

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2023-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2023/2024; 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**

Ms. Sanchez presented Resolution 2023-05 and read the title.

**On MOTION by Mr. Dean and seconded by Mr. Holt, with all in favor, Resolution 2023-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2023/2024; 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.**

**FIFTH ORDER OF BUSINESS**

**Presentation of Audited Financial Statements for Fiscal Year Ended September 30, 2022, Prepared by Carr, Riggs & Ingram, LLC**

Ms. Cerbone presented the Audited Financial Statements for Fiscal Year Ended September 30, 2022 and noted the pertinent information. There were no findings, recommendations, deficiencies on internal control or instances of non-compliance; it was a clean audit. Asked about the amount of reserve funds in the 2024 budget for the road from the gate to 98, Ms. Cerbone stated the Audit does not have a line-item level of detail that would facilitate an answer; the question should be revisited when the unaudited financials are presented.

**SIXTH ORDER OF BUSINESS**

**Consideration of Resolution 2023-06, Hereby Accepting the Audited Financial Statements for the Fiscal Year Ended September 30, 2022**

**On MOTION by Mr. Dean and seconded by Mr. Balduf, with all in favor, Resolution 2023-06, Hereby Accepting the Audited Financial Statements for the Fiscal Year Ended September 30, 2022, was adopted.**

**SEVENTH ORDER OF BUSINESS**

**District Engineer: Discussion Consideration/ Update**

**A. Speed Enforcement Device Proposals**

Ms. Sanchez stated that the District Engineer is not present but Mr. Holt, Mr. Dean and Ms. Womack will provide updates.

Mr. Holt stated he lives near the four-way stop and observed motorists pass by at 50 or 60 miles per hour. Recently, a vehicle almost struck a pedestrian. He stated his opinion that something must be done to deter speeding. He distributed a handout/brochure for a speed enforcement device and explained how it works, its effectiveness in nearby communities and the cost.

Discussion ensued regarding whether the device is adjustable, if it is capable of capturing license plate numbers, installing signage and speed humps on Wild Heron Way.

The consensus was for Ms. Womack to work with the District Engineer to obtain proposals and present prices and options at the next meeting.

This item would be kept on the agenda, under District Ecologist.

**B. FDOT Compliance**

Ms. Womack stated the bridge repairs are complete. The District Engineer will notify the Florida Department of Transportation (FDOT) that the repairs are complete and in compliance.

Mr. Robinson voiced his opinion that the recently installed guard rails are not attractive and asked if they can be upgraded to be more compatible with the community aesthetic. Ms. Womack will ask the District Engineer abouts FDOT standards and apprise the Board at the next meeting.

This item will be kept on the agenda, under District Engineer.

**C. Stormwater Camera Inspection**

Mr. Dean stated the funds that were allocated for stormwater camera inspection in Fiscal Year 2023 were not yet utilized; the contractor deferred the project because of the wet weather earlier in the season. As the rains have eased, the Board should revisit and pursue this project. Ms. Womack will obtain a proposal for stormwater scoping and present it at the next meeting.

This item will be kept on the agenda, under District Ecologist.

**EIGHTH ORDER OF BUSINESS**

**District Counsel: Discussion, Consideration, Update**

**A. Stormwater Facility Management Services Agreement (CDD approved, awaiting POA approval)**

**B. POA Maintenance Agreement (CDD approved, awaiting POA approval)**

- **Landscape Standards**

**C. Wild Heron Way Ownership - Hwy 98 to Covington Bridge**

Mr. Burke stated that responses regarding Items A, B and C are pending.

**D. Possible Land Swap with the POA for Gate Installation at Wild Heron Way and Pinfish**

Mr. Burke stated he has an idea about what might be done in that location but did not have a response from the Board, that he could draft a document or take direction. Mr. Holt stated that this item likely should be included in the St. Joe discussion later in the meeting.

Mr. Burke stated, for the record, that Mr. Robinson is attending via telephone due to medical purposes. Typically, if a Supervisor attends via telephone solely for convenience, his or her vote does not count but, as Mr. Robinson is attending due to exceptional circumstances, his vote will count.

**NINTH ORDER OF BUSINESS**

**District Ecologist: Discussion, Consideration, Update**

**A. Conservation Easement Signage**

Ms. Womack stated she contacted New Leaf about providing a proposal for hourly services for installation of the conservation signage, as New Leaf has difficulty providing a lump sum amount. Per New Leaf, with good direction, a map and a walk-through, the project can be completed in a timely manner. Once the proposal is transmitted, Ms. Womack will email it to the Board before the next meeting.

Ms. Womack responded to questions regarding the maximum distance between signs, conservation easement boundary and whether signage will be posted on the golf course property as well as CDD property.

**B. DEP Conservation Easement Swap**

Ms. Womack stated she received notification from the U.S. Army Corp of Engineers (USACE) and the Department of Environmental Protection (DEP) processor that they are

amenable to the swap of the conservation easement areas. She recently followed up with the DEP and the approval is pending. Once approval is granted, the CDD will then need to provide a survey showing the areas that will be posted as conservation, with a legal description for a draft conservation easement, as well as a survey and legal description for the areas that will be removed for the release. Once the conservation easement documents are prepared, they will be transmitted to the office of General Counsel for review.

Asked how long it will take to receive approval from the Government, Ms. Womack stated it typically takes 60 to 90 days to get the documents back from the Court.

Items A and B will be kept on the agenda.

**TENTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of June 30, 2023**

Ms. Sanchez presented the Unaudited Financial Statements as of June 30, 2023.

Mr. Holt asked about how much is in the Fiscal Year 2024 budget for the gate to 98 asphalt project. Ms. Cerbone stated there is a sufficient amount in unassigned fund balance for the expense.

**On MOTION by Mr. Holt and seconded by Mr. Self, with all in favor, the Unaudited Financial Statements as of June 30, 2023, were accepted.**

**ELEVENTH ORDER OF BUSINESS**

**Approval of June 5, 2023 Regular Meeting Minutes**

Ms. Sanchez presented the June 5, 2023 Regular Meeting Minutes.

Mr. Self asked for his reason for voting “no” to the motion to re-grass Wild Heron Way outside of the gate to be added to the minutes.

Line 188: Insert “Mr. Self stated his reason for dissenting was that we should not pay someone to fix their own problem.”

**On MOTION by Mr. Dean and seconded by Mr. Holt, with all in favor, the June 5, 2023 Regular Meeting Minutes, as amended, were approved.**

**TWELFTH ORDER OF BUSINESS****Staff Reports**

- A. **Ecologist/Operations: Cypress Environmental of Bay County, LLC**
- B. **District Counsel: Burke Blue**
- C. **District Engineer: McNeil Carroll Engineering, Inc.**
- D. **District Manager: Wrathell, Hunt and Associates, LLC**
  - **NEXT MEETING DATE: October 2, 2023 at 2:00 P.M. (Central Time)**
    - **QUORUM CHECK**

There were no reports from Staff.

**THIRTEENTH ORDER OF BUSINESS****Board Member Comments**

- **Gate Access**

Ms. Sanchez stated a few items must be considered that were not included on the agenda.
- **Ratification of Change Order with CWR - \$16,559.24**

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

Mr. Holt explained that there is a large, unsightly drop-off near the roundabout that needs immediate repair and, since this is a safety issue, he and Mr. Carroll think it necessary to proceed with the project and approved a CWR quote in between meetings. The project is currently in progress and should be followed by the bridge repair work.

**On MOTION by Mr. Balduf and seconded by Mr. Self, with all in favor, the CWR Change Order to repair a roundabout, in the amount of \$16,559.24, plus an additional not-to-exceed amount of \$8,000 to repair the bridge, was ratified.**

Mr. Dean stated, going forward, it is important to be very specific on Requests for Proposals (RFP) for road construction, with regard to ribbons, milling and testing.

- **Discussion: Gate Access/Locking Gate**

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

Mr. Holt stated he met with Ms. Mallory and discussed gate access, funding assistance for the roads, bridge maintenance costs and a pending agreement with St. Joe. Currently, the owner's gate is wide open and there is unfettered access into the community and the CDD has no control over the back gate.

Mr. Dean stated, although the CDD and POA recognize that the Shark's Tooth Golf Club is a private amenity within the community and gate access is necessary, The Board does not want the general public having unencumbered access. He questioned the public status of the road and asked Management to provide information as to how the tax-exempt bond funds were expended. He thinks the road could be public but with restricted access and discussed a previous agreement with St. Joe, the POA, the increase in golf membership, number of vehicles that currently access the gate and imposing an impact fee on St. Joe.

Mr. Dean motioned to lock the back gate to secure the area and bring St. Joe to the negotiation table. Mr. Self seconded the motion and stated the reason is for the safety of the residents of Wild Heron.

The Board and Staff discussed the legal issues that would ensue with locking the back gate, tax-exempt bonds, the CDD controlling gate access, St. Joe, a POA fence, a maintenance easement, safety issues and security concerns.

**The meeting recessed and reconvened.**

Mr. Burke stated that Mr. Dean's motion to close the back gate, which was built by the CDD but is on St. Joe property, is inappropriate because the CDD does not have the authority to enter upon the property and close it off; however, the CDD has the authority to have a gate constructed at the end of Wild Heron Way.

Mr. Holt voiced his opinion that the Board should send an official letter to St. Joe outlining safety and security concerns and the need to reach a consensus about the back gate.

Mr. Dean suggested allowing the public to speak about gate access. Ms. Sanchez stated all public comments should be limited to three minutes.

Resident David Fleet voiced his belief that the public purpose that made the tax-exempt bonds tax exempt has nothing to do with the public amenity or public road; rather, it involves environmental protection and wetlands and a deal made between an environmental lawyer for



the State of Florida, St. Joe, the CDD and the POA. He discussed what he believes to be the backstory of the boundary fence, the back gate, the POA, the road from Wild Heron Way and Pinfish and an irrigation agreement with St. Joe. He stated his opinion that CDDs can close roads even if there is a public amenity or public purpose. He urged the Board to lock the back gate.

Resident Sherri Mallory feels that the most reasonable approach is to restrict access at the end of Wild Heron Way, pending a second opinion about the perimeter boundary and the argument made by Mr. Fleet. She thinks the CDD has a strong argument that it can restrict roadway access and, ultimately, the access point needs to be at the end of Wild Heron Way.

Resident Steven Undercoffer discussed a broken gate behind his home allowing vehicles to cut through Wild Heron instead of going around under 98 and gasoline tanker trucks cutting across the CDD field. He believes that, when fiduciary responsibility and physical security are compromised, the CDD will have major issues.

Resident Eddie Levick urged the Board to hire an attorney in Jacksonville, Miami or Tampa instead of the panhandle.

Mr. Holt asked for a show of hands of residents who support the CDD's efforts to control gate access and stated, if there is a strong consensus, St. Joe will be more amenable to negotiate with the CDD.

**On MOTION by Mr. Dean and seconded by Mr. Self, with Mr. Dean and Mr. Self in favor, and Mr. Holt, Mr. Balduf and Mr. Robinson dissenting, locking the back gate, was not approved. (Motion failed 2-3)**

Ms. Cerbone asked Mr. Burke to define the scope for a second attorney and stated part of the discussion will be an initial not-to-exceed amount of \$600 per hour.

Mr. Burke stated he intends on seeking an attorney who only does CDD work, for the purpose of obtaining a second opinion regarding the CDD Board's ability to restrict and/or deny access on a public CDD road and whether the CDD can install a fence to prevent access in.

Resident Becky Ferris stated she plans to make a public records request for forms and documents that the Developer had to submit to the IRS to be approved for tax-exempt

government bonds and asked if the CDD has records of post issuance compliance monitoring. Mr. Burke will provide the documents to Ms. Ferris.

**On MOTION by Mr. Balduf and seconded by Mr. Holt, with Mr. Balduf, Mr. Holt, Mr. Dean and Mr. Robinson in favor, and Mr. Self dissenting, hiring another attorney for a second opinion regarding gate access, in a not-to-exceed amount of \$15,000, was approved (Motion passed 4-1).**

- **Discussion/Consideration: Possible Land Swap with POA for Gate Installation at Wild Heron Way and Pinfish**

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

Regarding the possible land swap with the POA for gate installation at Wild Heron Way and Pinfish, Mr. Burke stated the answer should rest upon the opinion of outside Counsel. The CDD has a right-of-way (ROW), which cannot be swapped; it must be abandoned as a piece of property. If the second opinion allows the CDD to deny access to the public road, then a gate can be installed and there would be no need for a land swap.

#### **FOURTEENTH ORDER OF BUSINESS**

#### **Public Comment**

Ms. Mallory discussed the front gate that was deeded to the POA, the back gate, width of the ROW, the land swap, a fence on Wild Heron Way, an easement and installing a gate to restrict access into the property.

Mr. Holt asked how the CDD should commence re-evaluating St. Joe's expansion of the golf course and the impact it will have on the CDD's tax rate over 20 years. Mr. Burke stated the CDD must engage an expert; he believes District Management can provide that service. He stated, when the golf course was constructed, the idea was that there would be 300 golf members and this was going to service one golf club but, since the golf facility is currently servicing something outside of the CDD, the Board could perform a re-assessment because the benefit that is conferred upon the CDD property is currently greater than what it was when compared to the original bond assessments.

Discussion ensued regarding a change in assessments, whether to commence a re-assessment process, impact fees, a future clubhouse, ongoing construction and a not-to-exceed amount for the preparation of an impact report.

Ms. Cerbone stated that Mr. Carroll’s input is key because he would provide District Management with a District Engineer’s Report that addresses the impact and dollar amount of the impact. Management cannot commence an Assessment Methodology without that data. Ms. Cerbone stated the Board could put forth a motion and a second to have the District Engineer commence an Engineer’s Report addressing the impact fees.

**On MOTION by Mr. Holf and seconded by Mr. Dean, with all in favor, authorizing Mr. Carroll to prepare an Engineer’s Report, in a not-to-exceed amount of \$10,000, addressing the impact of additional St. Joe activity, and for District Management to produce an Assessment Methodology thereafter, was approved.**

Ms. Ferris stated she understood, from Mr. Burke, that the CDD cannot sell its ROW but she believes that a manual on the FDOT website, with a section about acquisition of ROWs from government agencies, contradicts that. Mr. Burke referenced Florida Statute 336.

Ms. Mallory stated while the CDD is hiring Mr. Carroll to research the St. Joe re-assessment, she suggested the CDD also consider imposing special assessments on property owners that have access to Wild Heron Way, from the gate to 98, which would include approximately 1,000 units slated for development by St. Joe.

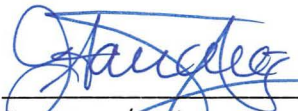
Mr. Burke stated a rule was previously adopted addressing exactly that.


**FIFTEENTH ORDER OF BUSINESS**

**Adjournment**

**On MOTION by Mr. Holt and seconded by Mr. Dean, with all in favor, the meeting adjourned at 4:56 p.m., Central Time.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

 AS CDD  
Chair/Vice CHAIR