

**MINUTES OF MEETING
WATERFORD LANDING
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Waterford Landing Community Development District held Multiple Public Hearings and a Regular Meeting on August 25, 2022 at 11:00 a.m., at the offices of Barraco and Associates, 2271 McGregor Boulevard, Suite 100, Fort Myers, Florida 33901.

Present were:

Charles Cox	Chair
Marcina Strang (via telephone)	Vice Chair
Donna Accardo	Assistant Secretary
Robert Stillman	Assistant Secretary
Joyce Hein	Assistant Secretary

Also present, were:

Daniel Rom	District Manager
Dana Crosby-Collier	District Counsel
Carl Barraco	District Engineer

Residents present, were:

Steve Danzinger	Helb Kleih	Kevin O'Connor	Richard Tanner
Nancy Marshall	Bill Terrell	Ron Bozinovich	Nancy Terrell
Vincent Delfuoco	Jim Ristano	James Gilyard	Glenda Reed

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mr. Rom called the meeting to order at 11:00 a.m. Supervisors Cox, Stillman, Hein and Accardo were present, in person. Supervisor Strang attended via telephone.

SECOND ORDER OF BUSINESS

Public Comments

Mr. Rom stated the public hearings today relate specifically to the budget. Residents will have an opportunity to speak during each of the hearings; each will have three minutes to speak and cannot share their time. The Board is under no obligation to respond to any comments or questions.

Referencing a letter, resident James Gilyard voiced his opinion that, as a veteran with PTSD and other ailments, he is exempt from paying taxes, as a reward for his service and risking his life. The government facilitated the purchase of his home and, in his opinion, he should not be penalized if he does not pay his assessments. Mr. Rom thanked Mr. Gilyard for his service and explained that the CDD assessments are a part of the non-ad valorem taxes and are assessed through the Tax Collector. Ms. Crosby-Collier stated the law does not allow the CDD to exempt anyone from paying special assessments.

Resident Richard Tanner expressed his opinion that the builder should have paid for the costly utility repairs and maintenance. He asked why the transfer of ownership to the City was not done prior to the builder leaving and why extra money is needed to cover utility repairs, in addition to the normal 30-year bond that was issued. He hoped his questions will be answered during the meeting.

THIRD ORDER OF BUSINESS**Discussion: Utility Turnover to City of Fort Myers**

Regarding the Utility Turnover to the City of Fort Myers (City) and the history and how the utility turnover process starts with the City, Mr. Barraco highlighted the following:

- The Developer, not the builder, installed the infrastructure and the CDD paid for and owns the infrastructure.
- The CDD then conveyed the infrastructure, specifically water and sewer, to the City of Fort Myers for ownership and operation and maintenance (O&M).
- The difference between the Developer, who installed the utilities in conjunction with the CDD, and the builders is that the City is different from other municipalities in that, 20 years ago, the City Manager decided that it was unwise for the City to accept utilities for ownership and O&M as soon as they are completed and placed into service, like all other municipalities, because, once construction was completed, the builder would request payment for the utilities that were installed in order to construct new homes. That worked fine until the recession and then everything stopped and it was years before the utilities could be completed.
- There is confusion at the City regarding when the City will consider accepting utilities for ownership and O&M. Some in the Public Works Department (PWD) say it should be when 50%

of the homes are completed but Mr. Barraco was previously told when 90% to 95% of the homes are completed.

- Mr. Barraco recently conferred with the City Engineer and learned that the City is going to stop using that unwritten policy and start accepting utilities for ownership when they are completed and placed into service.
- The CDD has been trying to convey the utilities to the City for several years, which has been a difficult process. Whether the policy is 50% or 90% home completion, it does not really matter because there are so many homes that it took several years to reach at least 50%.
- After a few years, the City conducted a review and came up with a very significant list. Staff reviewed it and, in Mr. Barraco's opinion, the majority of that list is standard maintenance that the CDD should not be penalized for because the CDD is trying to turn over an asset to the City.
- District Staff presented the City Engineer with a punch list of issues and reviewed them with City Staff. The belief is that those are maintenance items that should have been the City's responsibility from the beginning and could be considered part of the original construction. This is the issue.
- When the CDD's stormwater system was completed, regardless of whether the CDD retains ownership or turns it over to the City, the system was inspected, certified and placed in service by the City and those documents are public records.
- The City would not have placed the first water meter in service without those approvals and Mr. Barraco does not want there to be any miscommunication or misconception that the system has not been certified for use and is operational, according to the State.

Mr. Barraco responded to questions regarding the permit processes for water and sewer and the Developer's interest in conveying utilities to the City, as quickly as possible.

Mr. Rom recalled that, at the previous meeting, the Board directed Staff and the Chair to discuss narrowing the items on the list with the City Engineer and develop a reasonable punch list, minimizing costs and finalizing a deal for the CDD to pay and budget for. There have been a few meetings, there is a disconnect between what was verbally conveyed to Staff versus what is in the confirmation emails, so Mr. Rom had no choice but to prepare and present a higher budget than before, due to the utility turnover, which is the key driver for previously approved increase in assessments. Asked about the latest development, Mr. Rom stated an

email was received from the City with an unacceptable offer; he and Mr. Barraco will continue working with the City to reach a consensus on the punch list.

▪ **Public Comments Resumed**

Resident and Phase III HOA President Kevin O'Connor asked about the payback period for the bond, if the additional \$337.94 assessment is a one-time or recurring charge and if the CDD is working with the City to reduce that amount. Mr. Rom stated the bond term is 30 years; it will mature in 2044. The assessment is technically a one-time assessment for the fiscal year but it could change depending on next year's budget or what the Board decides. He explained the difference between the General Fund and Debt Service Fund budgets and acknowledged that, although there has not been an assessment increase in a while, the current increase is very significant increase due to the circumstances of the utility turnover. Staff is working with the City to reduce the amount.

Resident Jim Ristano asked if the punch list/maintenance items can be shared with residents, if the maintenance items are the punch list items and what caused the break at the development. Mr. Rom stated a public records request can be made. Mr. Cox stated there is one list that was generated after an inspection that was attended by the CDD, a contractor and the City. There is a debate as to what is maintenance and what could be considered related to original construction; in his opinion, much of it is maintenance. Regarding the break, a professional was engaged to inspect the excavation and photograph the break and, if possible, remove that portion of the pipe; so far, there has been no conclusion as to why the break occurred.

Resident Nancy Marshall asked if any progress was made with the City to finalize the punch list, since April, and whether the CDD or the City schedules walk-throughs. Mr. Rom stated he emailed and called and coordinated with the District Engineer and Chair, who was directed to be the liaison, on behalf of the Board, to work with City Representatives. Although the team focused on the finances, following up and trying to get the punch list down, the City has been slow in responding because only one person can make decisions and City is dealing with staffing shortages. Mr. Barraco stated the last walk-through that was scheduled and completed was initiated by the CDD, resulting in the punch list being discussed.

Resident Nancy Terrell asked if pressure from the community would be helpful and how residents could go about doing that. Mr. Cox replied affirmatively and stated residents could

start by contacting the City Commissioner and let them know that this is an issue and that residents would like this item resolved and their assessments reduced. The Council person or City Commissioner's name for Lindsford residents in Ward #3 is Terri-Lyn Watkins; her contact information is on the City's website. Residents who live on Crofton are represented by the Hon. Johnny Streets Jr.

A resident asked if the CDD signed off on that punch list and, in essence absolved DR Horton or the Developer, and when or why did the CDD assume this responsibility. Mr. Barraco stated all the information is in the original Engineer's Report for the CDD.

Ms. Hein stated the Engineer's Report is the report that established the entire bonding process. To issue bonds, an Engineer must be engaged to prepare a report with an estimate of what it will cost to construct all the infrastructure, including the water and sewer utilities, and anything that is used as a community. The cost from the Engineer's Report and other sources are used to determine the amount of bond debt that is needed to construct the improvements.

Mr. Barraco stated the CDD currently has the sewer system because the CDD built it as part of the development. The CDD is currently trying to turn it over to the City because it is time for the City to accept the utility, as the City is operating the system and billing residents for water and sewer each month. Mr. Rom can provide a copy of the Engineer's Report.

Mr. Rom stated his contact information, meeting agendas and other information is on the CDD website, www.waterfordlandingcdd.net.

Mr. Tanner asked about the City needing the HOA's permission for access to its new water pipelines being installed and wondered if that could be leveraged. Mr. Barraco stated the City will need an easement from the HOA. Mr. Rom stated it is best for the CDD not to get involved in HOA business. Mr. Cox explained that there are three neighborhood HOAs and a Master HOA that do different things, including some responsibilities for infrastructure. The CDD has very specific responsibilities for infrastructure. Since certain residents are relying on information on the Facebook page, a lot of those things are getting conflated. The different entities have different functions and the only issues that will be discussed in this meeting are issues related to the CDD.

Mr. Barraco stated the original easement for the waterline installation was granted allowing City access from Aldermans, if the City needed to cross the easement that is owned by the CDD. The CDD has the right-of-way (ROW) from the canal to south to Winkler. The City

already owns the bike path and the City has some easements along the bike path that crosses CDD-owned land, as well as CDD-owned land in what will be Serena Park. The CDD granted the City an easement to cross Aldermans, in the CDD-owned ROW, to get into the well heads but they must repair any damage to the landscaping and replace the sidewalks, if broken, etc. That was the easement that was granted before the City began the work early this year.

Mr. Cox encouraged all residents to advise their City Council Person of their feeling that they are not being treated fairly by the City, that they have paid their water bills, that a portion of the water and sewage bill forms the PWD operating budget to maintain and repair the water mains and the sanitary sewers since they moved into this neighborhood since 2014 or 2015, through the taxes, and now the City is asking homeowners to pay again to take care of services that they should have been providing out of what homeowners have paid for years.

Mr. Cox stated the CDD might not be able to exert much pressure but, if the 953 voting households within Lindsford all contact their City Council Person and convey that this is a very important issue and that they, as the Council Person, should exert pressure on the PWD stressing that this is an unreasonable list of items that the City is asking the CDD to take care of when the City would have done it if it had accepted the utilities for transfer right after they were built.

Discussion ensued regarding developing a talking points memo, circulating a petition, residents attending City Council meetings, etc. Supervisor Hein volunteered to work with Staff to draft and circulate information letters to residents to communicate with the City.

Resident Danny Nelson asked for the length of the bond term. Mr. Rom replied 30 years.

FOURTH ORDER OF BUSINESS

Public Hearing to Consider the Adoption of the Fiscal Year 2022/2023 Budget

A. Proof/Affidavit of Publication

The affidavit of publication was included for informational purposes.

B. Consideration of Resolution 2022-04, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2022, and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date

Mr. Rom presented the proposed Fiscal Year 2023 budget. He pointed out that the primary reason for the assessment increase is the “Repairs to utility system” line item, on Page 1, at \$179,108. The total assessment amount of \$1,130.83 reflects an increase of \$198 compared to Fiscal Year 2022.

On MOTION by Ms. Hein and seconded by Mr. Stillman, with all in favor, the Public Hearing was opened.

A resident asked if there is a special assessment in addition to the total assessment amount. Mr. Rom stated the assessment amount of \$1,130.83 encompasses both the General Fund and the Debt Service Fund budgets, which are considered special assessments by the State.

Resident Vincent Delfuoco asked if the assessment amount will be the same each year. Mr. Rom stated the General Fund, which is the O & M can fluctuate based upon current situations; at a meeting each year the proposed budget for the next fiscal year is approved and it is then adopted at a different meeting.

A resident asked about reserve funds. Mr. Rom stated the CDD has reserves but not enough to cover the costs. He reviewed the Assigned and Unassigned line items, on Page 1.

A resident asked about other potential large expenses that the CDD could be responsible for, once the issue has been resolved and the utilities have been turned over to the City. Mr. Rom stated lake bank erosion projects and future capital drainage repairs.

Mr. Tanner voiced his opinion that the mailed letter to property owners could have given a clearer explanation because most homeowners thought they were going to be billed \$338, in addition to \$1,200 on the tax bill.

On MOTION by Mr. Cox and seconded by Mr. Stillman, with all in favor, the Public Hearing was closed.

Mr. Rom presented Resolution 2022-04 and read the title.

On MOTION by Ms. Hein and seconded by Ms. Strang, with all in favor, Resolution 2022-04, Relating to the Annual Appropriations and Adopting the Budgets for the Fiscal Year Beginning October 1, 2022, and Ending September 30, 2023; Authorizing Budget Amendments; and Providing an Effective Date, was adopted.

FIFTH ORDER OF BUSINESS

Public Hearing to Hear Comments and Objections on the Imposition of Maintenance and Operation Assessments to Fund the Budget for Fiscal Year 2022/2033, Pursuant to Florida Law

A. Proof/Affidavit of Publication

B. Mailed Notice(s) to Property Owners

These items were included for informational purposes.

C. Consideration of Resolution 2022-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; 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. Rom presented Resolution 2022-05 and read the title. This Resolution approves the assessments, allows for placement of the assessments on the tax bill and for the Tax Collector to collect the special assessments.

On MOTION by Mr. Cox and seconded by Ms. Hein, with all in favor, the Public Hearing was opened.

No members of the public spoke.

On MOTION by Mr. Stillman and seconded by Ms. Hein, with all in favor, the Public Hearing was closed.

On MOTION by Ms. Hein and seconded by Mr. Stillman, with all in favor, Resolution 2022-05, Making a Determination of Benefit and Imposing Special Assessments for Fiscal Year 2022/2023; 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

Ratification of Denco Construction, Inc., Agreement for Water Main Repair

Mr. Rom presented the Denco Construction, Inc., Agreement, in the amount of \$19,500, which the Chair previously executed. This was deemed an emergency repair.

On MOTION by Ms. Hein and seconded by Ms. Strang, with all in favor, the Denco Construction, Inc., Agreement for Water Main Repair, in the amount of \$19,500, was ratified.

SEVENTH ORDER OF BUSINESS

Update: Traffic Light at Winkler Avenue and Alderman’s Walk Boulevard

• Discussion: Letter of CDD’s Support for the City of Fort Myers Challenger Blvd. Extension Project

Mr. Cox provided the following update:

- He asked the City Traffic Engineer for the status of the grant support letter.
- The County Planning Organization rejected it because it did not want to set a precedent by applying for that type of grant to fund traffic lights.
- It went no further and the CDD must go through the City’s normal approval process for traffic lights.
- The Traffic Engineer stated the City will proceed with extending Challenger Boulevard to Winkler, which will tie in opposite Alderman’s Walk Boulevard, and install a traffic light in that location to control traffic going into the new hospital. The timing is about four years.

Mr. Barraco stated, if residents contact their City Council Person regarding the utility turnover, they should advocate for the traffic signal, as well.

Discussion ensued regarding a traffic study, CDD business, potential liability to the CDD if a traffic light is not installed and putting pressure on the City.

EIGHTH ORDER OF BUSINESS**Update: Lake Bank Erosion Inspections**

- **Discussion: Final Steps**

Mr. Rom reported the following:

- Staff is identifying certain properties with downspout or gutter runoff that contributes to lake bank erosion in certain areas.
- Problem areas will be photographed and letters will be sent notifying homeowners of the issue.
- Ultimately, it contributes to damaging CDD property and will impact the CDD budget.

Mr. Barraco stated the CDD's stormwater system was approved and is controlled by the South Florida Water Management District (SFWMD). As part of the approval to construct the system, the CDD required that a legal entity be formed and responsible for O&M. Before the CDD accepted the lakes for formal O&M, Staff performed several inspections to ensure that there was no erosion and, where there was erosion, the builders and/or Developers were required to make the repairs. The lakes were in good condition when the CDD was established. The lakes were constructed for esthetics and to treat and filter stormwater runoff and to attenuate or store the stormwater on site so it does not travel downstream. There will always be some level of erosion in and around the lakes. Inspections commenced but are stalled because the water level rose in the wet season; inspections will be completed once water levels decrease.

Ms. Hein recalled that, at a prior meeting, Staff was going to provide step-by-step instructions of how affected homeowners should handle or address this issue and asked if that is still forthcoming. Mr. Rom stated, once all information is compiled, he will draft a letter for distribution. Mr. Barraco stated an information package is forthcoming and noted there are different ways to mitigate that cost. The operational criteria from the SFWMD is a slope no steeper than 3.5' for horizontal, 1' for vertical and a vertical drop-off no greater than 9".

Asked to make the distinction between the CDD's responsibility for repair versus the HOA, that owns the dirt around the lakes, Mr. Barraco stated Staff is working on establishing what needs to be repaired, what is CDD responsibility and determining the causes.

Mr. Cox voiced his understanding that the CDD is only responsible for the area below the controlled elevation or normal water level in the lake. If a homeowner's gutters are discharging and there is an obvious gully going down and creating a fan in the lake that is

below the high-water mark, the CDD must make the repair. Mr. Barraco clarified his earlier answer and stated the CDD owns the lake tracts, which, in some instances might be at control elevation, and sometimes 5’ beyond that. The CDD is responsible for any erosion in the lake tracts that it owns and the SFWMD requires a 20’ access above the normal water line so that the CDD can maintain the lakes but that 20’ could be an easement not owned by the CDD. In some instances, the CDD owns 5’ and a 15’ easement by another entity but there are different combinations of how the 20’ access is provided.

NINTH ORDER OF BUSINESS

Presentation of Audited Financial Report for the Fiscal Year Ended September 30, 2021, Prepared by Grau & Associates

Mr. Rom presented the Audited Financial Report for the Fiscal Year Ended September 30, 2021 and reviewed pertinent information. There were no findings, recommendations, deficiencies on internal control or instances of non-compliance; it was a clean audit. He read the following statement from Page 26 into the record:

“In our opinion, the District complied, in all material respects, with the aforementioned requirements for the fiscal year ended September 30, 2021.”

TENTH ORDER OF BUSINESS

Consideration of Resolution 2022-06, Hereby Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2021

Mr. Rom presented Resolution 2022-06 and read the title.

On MOTION by Mr. Cox and seconded by Ms. Hein, with all in favor, Resolution 2022-06, Hereby Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2021, was adopted.

ELEVENTH ORDER OF BUSINESS

Consideration of Resolution 2022-07, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2022/2023 and Providing for an Effective Date

Mr. Rom presented Resolution 2022-07. Mr. Cox stated that the meetings could be moved to the Clubhouse to accommodate residents and asked for a show of hands for future meeting participation and attendance. The following change was made to the Fiscal Year 2023 Meeting Schedule:

LOCATION: Change “the offices of Barraco and Associates” to “Lindsford Amenity Center”

Mr. Rom was asked to coordinate with Ms. Judy Bavets and add her to the calendar.

On MOTION by Ms. Accardo and seconded by Ms. Strang, with all in favor, Resolution 2022-07, Designating Dates, Times and Locations for Regular Meetings of the Board of Supervisors of the District for Fiscal Year 2022/2023 and Providing for an Effective Date, as amended, was adopted.

TWELFTH ORDER OF BUSINESS

Acceptance of Unaudited Financial Statements as of July 31, 2022

Mr. Rom presented the Unaudited Financial Statements as of July 31, 2022.

On MOTION by Ms. Hein and seconded by Mr. Stillman, with all in favor, the Unaudited Financial Statements as of July 31, 2022, were accepted.

THIRTEENTH ORDER OF BUSINESS

Approval of April 28, 2022 Regular Meeting Minutes

Mr. Rom presented the April 28, 2022 Regular Meeting Minutes.

On MOTION by Mr. Stillman and seconded by Ms. Hein, with all in favor, the April 28, 2022 Regular Meeting Minutes, as presented, were approved.

FOURTEENTH ORDER OF BUSINESS

Other Business

There was no other business.

FIFTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Straley & Robin*

There was no report.

B. District Engineer: *Barraco and Associates, Inc.*

There was nothing further to report.

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

- **NEXT MEETING DATE: November 17, 2022 at 11:00 AM**
 - **QUORUM CHECK**

The next meeting would be held on November 17, 2022.

SIXTEENTH ORDER OF BUSINESS

Supervisors' Requests

There were no Supervisors' requests.

SEVENTEENTH ORDER OF BUSINESS

Public Comments

A resident asked about meeting notifications and cancellations. Ms. Crosby-Collier stated the law requires that CDDs post all meetings on its website and Mr. Rom previously provided the CDD website address. Asked how residents who did not attend this meeting will know, Mr. Rom stated the Property Manager can email information about the meetings.

A resident suggested forming a sub-committee with other communities to address the traffic light. The bus stop, School District, traffic signal funding and the City, were discussed.

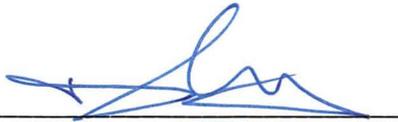
A resident asked about being included on the list of homes with lake bank erosion issues. Mr. Cox stated the property is already on the list; the entire lake perimeter is being inspected and, if anyone has specific concerns, they should inform the District Manager. Mr. Rom stated all he needs is the address.

In response to a resident's question regarding the Supervisor term lengths, Ms. Hein stated terms are four years and three Seats will be on the ballot in November.

EIGHTEENTH ORDER OF BUSINESS

Adjournment

On MOTION by Mr. Cox and seconded by Mr. Stillman, with all in favor, the meeting adjourned at 12:46 p.m.



Secretary/Assistant Secretary



Chair/Vice Chair