

**MINUTES OF MEETING  
NAPLES RESERVE  
COMMUNITY DEVELOPMENT DISTRICT**

The Board of Supervisors of the Naples Reserve Community Development District held a Regular Meeting on December 1, 2022 at 10:30 a.m., at the Island Club at Naples Reserve, Activities Room, 14885 Naples Reserve Circle, Naples, Florida 34114.

**Present at the meeting were:**

Thomas Marquardt	Chair
Deborah Lee Godfrey	Vice Chair
Charlene Hill	Assistant Secretary
Gregory Inez	Assistant Secretary
Anna Harmon	Assistant Secretary

**Also present, were:**

Cindy Cerbone	District Manager
Jamie Sanchez	Wrathell, Hunt and Associates, LLC (WHA)
Andrew Kantarzhi	Wrathell, Hunt and Associates, LLC (WHA)
Shane Willis	Operations Manager
Meagan Magaldi	District Counsel
Terry Cole	District Engineer
Jeff Wright	Henderson Franklin Starnes & Holt P.A.

**Residents present, were:**

Joe Miano	Jeff Wright	Heidi McIntyre	Heidi Devin	Michael Harmon
Dino Lanno	Tony Rifino	MaryAnn Miano	Taylor Boltt	Brendan Taggard
Brian Carr	Mrs. Carr	Pat Ranallo	Sean Almy	Samantha Almy

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Ms. Cerbone called the meeting to order at 10:31 a.m.

**SECOND ORDER OF BUSINESS**

**Public Comments**

This item was presented following the Fourth Order of Business.

**THIRD ORDER OF BUSINESS**

**Administration of Oath of Office to Newly Elected Supervisors [SEATS 2 & 5] (*the following to be provided in a separate package*)**

Ms. Sanchez, a Notary of the State of Florida and duly authorized, administered the Oath of Office to Mr. Thomas Marquardt and Ms. Anna Harmon. Ms. Cerbone provided and briefly explained the following:

- 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**

**FOURTH ORDER OF BUSINESS**

**Consideration of Resolution 2023-01, Designating a Chair, a Vice Chair, a Secretary, Assistant Secretaries, a Treasurer and an Assistant Treasurer of the Naples Reserve Community Development District, and Providing for an Effective Date**

Ms. Cerbone presented Resolution 2023-01. Ms. Godfrey nominated the following slate:

Thomas Marquardt	Chair
Deborah Lee Godfrey	Vice Chair
Craig Wrathell	Secretary
Charlene Hill	Assistant Secretary
Gregory Inez	Assistant Secretary
Anna Harmon	Assistant Secretary
Cindy Cerbone	Assistant Secretary
Jamie Sanchez	Assistant Secretary

No other nominations were made. Prior appointments by the Board for Treasurer and Assistant Treasurer remain unaffected by this Resolution.

**On MOTION by Ms. Hill and seconded by Mr. Inez, with all in favor, Resolution 2023-01, Designating a Chair, a Vice Chair, a Secretary, Assistant Secretaries, a Treasurer and an Assistant Treasurer of the Naples Reserve Community Development District, as nominated, and Providing for an Effective Date, was adopted.**

▪ **Public Comments**

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

Ms. Cerbone explained the protocols for public comments and noted that the Board and Staff are not required to respond to any questions or comments during the meeting.

Lot # 77 owner Samantha Almy stated she and her husband are one of the four homes adversely-impacted by the lot easement encroachment issue in Parrot Cay. She read from a prepared statement describing her anticipation and excitement of occupying a newly-built home in September of 2022 but received a letter from the CDD in August 2022 denying an Easement Use Agreement that she was unaware was being sought. She detailed the emotional and financial drain she and her family have experienced due to this development. She commented that none of the parties, including the builder, County or HOA, had processes in place to prevent the issue in a cost-efficient way and voiced her hope that the CDD will be able to help resolve the matter.

Ms. Sanchez read two letters into the record.

Letter from Ms. Christine Tunney:

“Hello, I am submitting this letter because I am unable to make the CDD meeting due to travel and would like to have this letter submitted to the record. It has come to my attention that there are several properties in Parrot Cay that have purposed plans that violate the HOA, CDD and County rules and setbacks. Including one pool that the owner openly admitted that he knew the pool was too big and he stated he would ask for forgiveness instead of permission. He has been vocal in the community and the meetings that he would not be correcting the issue

and he would just wait out the HOA and the CDD. Several of the residents in Coral Harbor have added pools and extended lanais to their homes, each and every one of us followed the rules set forth by our HOA, CDD and County. I truly hope that the County, the CDD and the HOA will hold the residents of Parrot Cay to the same rules that the residents of Coral Harbor and elsewhere in the community had to follow.”

Letter from Ms. Heidi Devlin, President of the Naples Reserve HOA:

“On your agenda today, it appears you will be discussing easement encroachments in Parrot Cay. I am hoping you will each vote ‘no’ to these requests. We are a community of 1,088 homes. No other builder has had issues like KTS has with these four lots, and when KTS built their first few homes in Parrot Cay, while the Developer was still here, they had no issues; they followed the rules, they know the rules, yet just chose to ignore them with these homes. One of the KTS homes is asking for your approval when they knowingly built the lanai larger than what was approved and permitted. Why would you condone that? What message are we sending to all of the other homeowners who followed the rules for their homes and pool projects? What message are we sending to the homeowner whose pool/lanai project was stopped when it was discovered and they were inches into the easement? They fixed it, yet for these KTS homes, they don’t need to? What steps are in place to be sure this doesn’t happen again? I see no changes to the process that would prevent this for any remaining homes to be built. I understand these mistakes by KTS will be costly for them to address but that is their problem, not yours. Doing the right thing isn’t always easy, and KTS should be held accountable to the same standards, as all others have. Saying ‘yes’ to KTS will set a precedent, allowing the remaining vacant lots to do the same; I urge you to vote ‘no.’”

▪ **Discussion/Consideration of Lot Encroachments [Parrot Cay Lots 63, 65, 70 & 77]**

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

Mr. Jeff Wright, of the Henderson Franklin Law firm, stated he represents the four property owners; the Almys, Carrs, Mianos and Ranallos. The Almys and Carrs are attending via telephone and the Mianos and Mr. Pat Ranallo are present in person. In all, there are eight owners of four properties who have been dealing with this encroachment issue for many

months and have incurred storage and rental costs as well as emotional costs. The property owners would greatly appreciate a resolution that will allow them to reside in their homes.

Mr. Wright discussed how the issue originated, the 10' easement configuration along the lake in Parrot Cay versus the 5' easement configuration of other properties within Naples Reserve, the builder KTS's culpability, the setback and the lot boundary.

Mr. Wright reviewed the Naples Reserve Easement Encroachments PowerPoint Presentation, including the locations of Parrot Cay Lots 63, 65, 70 and 77, plat history, status of the four properties impacted by this issue, dedications, easements, proposed Easement Vacation/Easement Use Agreement, Collier County's role and responsibilities, aerial drone photographs of each property, public benefits of Vacating/Use Agreements and solutions to the problem.

Mr. Wright outlined the following three options that would protect the CDD and help the owners:

1. Grant or approve a Letter of No Objection (LONO) as part of the County's application.
2. Approve a tri-party agreement or Easement Use Agreement, defining space for each lot.
3. Approve a stand-alone encroachment agreement between the CDD and each property owner.

Regarding the letter from the HOA, Mr. Wright stated he conferred with Ms. Kyla Thompson, HOA Counsel, and was not aware that there was any opposition whatsoever. He highlighted that there was no error on the part of the homeowners and no one is trying to get away with anything; the encroachments were an honest mistake by the builder, given the dimensional concerns he mentioned earlier.

Ms. Cerbone stated that the Board will give their feedback and/or pose questions and then the affected property owners can have an opportunity to address the Board.

Mr. Marquardt stated it is unfortunate that the builder and County representatives were not in attendance at the meeting, given that they caused this issue. He voiced his opinion that KTS built properties elsewhere, correctly honoring the setbacks, but did not do so in these four cases. He is having difficulty understanding how this occurred.

Mr. Wright responded to questions regarding the sequence of the construction, the setbacks, why the structure/home in the Lake Maintenance Easement was not included in the survey for Lot #65, why the pool area in Lot #70 is so large and the homeowner asking the HOA for forgiveness instead of for permission. Asked why the County approved all the structures in question, despite the encroachment issues, Mr. Wright guessed that it was an oversight on the part of the County.

Mr. Marquardt discussed erosion concerns and issues about the property owners not being able to install landscaping in front of their lanais, maintaining property values, precedent set by the owners who followed the Easement Use Agreement setbacks, impact of breaking the set precedent to help the affected property owners and pursuing the builder.

Ms. Cerbone stated the impacted property owners can issue their statements.

Lot #63 owner Mary-Ann Miano stated she and her husband contracted with KTS in September 2020 and have experienced many obstacles unrelated to the issues being discussed. She and Mr. Miano received approval from the County for the pool and the lanai, as planned. They are careful planners, law-abiding citizens and innocent parties in this encroachment issue. She explained that she and Mr. Miano sold their home in New Jersey in late August and, on moving day, received a letter of rejection from the CDD with no explanation of what was being rejected. She opined that they are essentially homeless and have been moving in and out of various relatives' homes and have no privacy or independence. The builder and the County were clearly culpable. She appealed to the Board to please realize the exception posed by Mr. Wright does not impact the serviceability to the sprinkler line of the two palm trees and asked the Board not to just see a structure, a house, but to see the individuals behind it.

Lot #70 owner Pat Ranallo stated he wished to clear the air with the Board, as he did not know where the information of him asking for forgiveness and not permission came from. He stated that it is untrue and that he had nothing to do with it. He and his wife hired KTS, the designers and builders of all four of the homes in question. The pool is supposedly in the same place and is the same size as what was submitted and approved by the County. The County has been outstanding and granted him a Certificate of Occupancy (CO) for \$31,000, which he paid for out of pocket. He discussed asking for an extension of his lanai cage and being approved by

the HOA and bringing a lawsuit against KTS. In his opinion, none of these easement encroachments are causing erosion, as he believes that erosion is not caused by buildings, it is caused by water or weather and from water coming off a building going on the grass. He felt that the matter can be resolved by everyone working together to figure out a way to solve the issues and make it amicable for everybody. Asked if he submitted a plan to the Design Review Committee (DRC) and if it was approved, Mr. Ranallo stated he had no part in submitting anything and the pool was constructed before the current HOA was in place.

Ms. Almy discussed the setbacks in relation to the easements, the interior lake and the Count. She noted that KTS was an original approved builder that won awards for its homes but is currently bankrupt and, if sued, it would be difficult to collect any money from them. She voiced her assumption that KTS was vetted and that Parrot Cay was the premier community in the area and stated, although she and Mr. Almy did their due diligence, they find themselves in this unfortunate situation. While she understands prior precedent, she appealed to the Board for a resolution.

Lot #65 owner Brian Carr commented that plantings are the best way to solve the erosion issue and that the property owners have no plans to add vegetation around their lanai and the palm trees that were previously planted are closer to the water than the irrigation mainline. The trees are well beyond the encroachment and the 5' remaining encroachment. He expressed his disappointment with KTS abandoning the projects. He contacted other builders but no one is willing to complete a partially built home under a different registration. He concluded that many errors were made, which were carried forward by multiple parties; however, it was an oversight and a chain reaction with multiple links connected together caused the current situation that the four property owners are in.

Mrs. Carr stated, in response to a comment that was made that the four property owners wanted bigger homes than the properties would allow, she and the other property owners would not want to go against regulations. This issue has been excruciating and has taken over their lives. The surveyor surveyed only the home, as the pool and lanai decks were not in place. The surveyor simply looked at the lot line and the existing conditions of the principal structure.

In response to Mr. Marquardt's question as to why the survey submitted to the County for Lot #65 did not show the existing structure that is open on all sides, Mr. and Mrs. Carr stated they do not know.

Asked for his feedback, Mr. Cole noted the CDD's maintenance responsibility for the Easement Use Agreement and the IE on the plat and Collier County not making emergency repairs. He stated by decreasing the Easement Use Agreement by 5', the irrigation line will need to be identified; if the vacation is granted and there is a conflict, the homeowner will need to pay for relocating the irrigation line. Physically, a backhoe or some type of equipment could fit into the 15' area to make repairs.

Mr. Cole discussed the drone photos, erosion, yard drain pipes, 4:1 slope in case of a major storm and difficulties accessing certain areas due to the encroachments. He pointed out that, if the Board agrees to vacate or put an easement agreement in place, it must be ironclad in that the CDD will in no way be responsible for any damage to a structure on the lot caused by a vacation of 5' of the Easement Use Agreement, which the CDD would be responsible for.

Mr. Willis commented on negligence, lot size and KTS. He stated, for the record, that the CDD did not hire the builder. Regarding a principal survey for the homes, the reason for a second survey is to make sure that, if a pool is installed, it does not encroach on easements. Regarding rebuilding the lake bank to restore the easement size, he stated that is a costly option. He encouraged the Board to target the builder for recovery.

Asked about the CDD's legal position, Ms. Magaldi stated the CDD does have an encroachment policy in effect for those nonstructural improvements on its property, such as boat docks, pool equipment, etc., but the issue involves structural improvements for pools, lanais, etc. She acknowledged the three options proposed by Mr. Wright and voiced her understanding that these Easement Use Agreements are not always for structural improvements; they are intended for things like A/C pads or pool equipment, and entering into an Easement Use Agreement would be off the table for the County and the CDD. Ms. Magaldi noted there is no request for vacation of easements in today's meeting but that could potentially come at a later date regardless of whether the Easement Use Agreement is granted now or not. A vacation would be cleaner on a title and the homeowners are giving up the 5' of



easement versus, with the Easement Use Agreement, they would allow those structures to exist.

Ms. Godfrey stated that her heart breaks for the innocent homeowners and that she hoped they would pursue the builder. She feels that the Board needs to find a way to help the owners occupy their homes. She asked about the potential consequences, should the Board decide to disallow the encroachments. Ms. Magaldi stated the CDD is not required to grant an easement and litigation could be on the table. Asked how the CDD would respond to a lawsuit, Ms. Cerbone stated, if at any time a complaint is filed against the CDD, it would go to the Registered Agent, who would forward it to the District Manager, who would then forward it to the CDD's insurance carrier. The insurance carrier would assign outside Counsel, who then works with District Counsel and other CDD Staff.

Regarding the difference between a vacation and an Easement Use Agreement, Ms. Cerbone stated a vacation is in favor of the property owner; whereas, an Easement Use Agreement favors the CDD. For example, if the CDD needs to access the area but cannot due to the encroachments, the CDD has the right to remove and/or damage the encroaching structures to perform maintenance, without giving notice.

Discussion ensued regarding the dangers of building on an easement, which of the three options would be safest for the CDD, whether the Board should vote today, requesting additional information from Mr. Wright, whether to set a special meeting in January, LONO requests, the County requiring a LONO regardless of which option is chosen, the County granting Mr. Ranallo a CO despite the issues and how the other property owners can obtain COs from the County.

In response to Ms. Hill's question regarding which option to choose, Ms. Cerbone stated Staff would recommend the third option; a stand-alone agreement between the property owner and the CDD; however, even if that is achieved, the CDD might still have to issue a LONO to the County.

The Board's consensus was to vote on the three options at the next meeting and to allow Mr. Wright to follow up with the County to confirm the LONO requirement and obtain additional information from the property owners.

Ms. Cerbone stated the four lots will be listed as separate items on the next agenda and Mr. Wright must make individual presentations for each property.

**Mr. Wright left the meeting.**

**The meeting recessed at 12:32 p.m. and reconvened at 12:39 p.m.**

Ms. Cerbone recapped the following action items for Mr. Wright:

- See what he can do to obtain COs for the property owners, as it is not the CDD’s job.
- Obtain confirmation from the County that there will not be an issue if the Board considers granting an easement and that it would be solely between the CDD and the property owner, with the understanding that the CDD would issue a LONO to the County.

Ms. Magaldi recapped the items that she will convey to Mr. Wright before of the next meeting, as follows:

- Mr. Wright to specify the actual square footage needed for each of the four lots.
- That, if the easement encroachment agreements are granted, there will be a request for reimbursement of legal and engineering fees and, potentially, an upfront dollar amount for lake bank restoration.

Ms. Hill cautioned against communicating to Mr. Wright that it is a foregone conclusion that the Board will approve anything.

Mr. Cole will inspect the Easement Use Agreements in each of the four lots, including the palm tree locations, and prepare a report of his findings prior to the next meeting.

**FIFTH ORDER OF BUSINESS**

**Action Items Updates**

**A. Chair**

- **Matters Relating to the Littoral Shelf**

**B. Supervisor Hill**

- **Easement Audit Project**

These items were presented following the Sixth Order of Business.

**SIXTH ORDER OF BUSINESS**

**Service Provider Reports**

**A. SOLitude Lake Management, LLC**

Mr. Willis stated he is working with SOLitude to improve their reports. Future reports will include identifying the lakes that are being treated and the products used to treat them.

Mr. Willis presented Work Order #00054546 and responded to a question regarding debris collection.

**B. Napier Sprinkler, Inc**

Mr. Willis stated Napier did not submit a sprinkler report and indicated that a few erosion repairs were done to resolve the Drainage District violations. The project is unfinished so Staff will meet with Napier next week to update the proposal and prioritize the areas that need to be addressed.

- **Consideration of Superior Waterway Services, Inc.**

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

Mr. Willis presented the following:

- A. **Aeration Management Agreement**

**On MOTION by Ms. Godfrey and seconded by Ms. Harmon, with all in favor, the Superior Waterway Services, Inc., Aeration Management Agreement, for \$250 per quarter, was approved.**

- B. **Aeration Repair Service Agreement**

**On MOTION by Ms. Godfrey and seconded by Ms. Harmon, with all in favor, the Superior Waterway Services, Inc., Aeration Repair Service Agreement, in substantial form, pending outcome of easement requirements, was approved.**

This item will be carried over to the next agenda.

- **Operations Manager: *Wrathell, Hunt and Associates, LLC***

**This item, previously Item 15C, was presented out of order.**

Mr. Willis presented the December Field Operations Report.

**Mr. Willis left the meeting.**

- **Action Items Updates**

**A. Chair**

- **Matters Relating to the Littoral Shelf**

**This item, previously Item 5A, was presented out of order.**

Mr. Marquardt stated he and Ms. Devlin have been discussing the bank ratio around a lake and, after inspecting several properties in the area with Mr. Cole, it appears the lake bank is not at a 4:1 ratio, which makes it impossible to bring in maintenance equipment and mow the lawn. Per Mr. Cole, the area must be mowed in order to conduct a proper inspection. Ms. Devlin agreed to have Crawford clear the area between December 7<sup>th</sup> and 9<sup>th</sup>. Mr. Cole confirmed that an inspection will occur days later. The findings will be presented to the HOA. It will become a question of which entity is responsible for corrections.

Mr. Marquardt toured the rowing lake with several individuals and discovered visible debris and additional construction debris that is visible when the lake recedes. In the past, volunteers offered to maintain the area but the CDD declined the offers because of liability concerns. Asked if there is a way to mitigate this, Ms. Magaldi stated there might be. She will research it and present her findings at the next meeting.

**B. Supervisor Hill**

- **Easement Audit Project**

**This item, previously Item 5B, was presented out of order.**

Ms. Hill presented the Easement Audit Report and stated only the easements between the homes were inspected; it was a visual audit conducted with Mr. Willis.

Ms. Hill discussed fences, easement encroachments, trees, transformers and irrigation equipment in different areas.

Discussion ensued regarding significant erosion concerns in Mallard Point, surveys, the DRC and how to proceed with the properties found to have easement violations.

Mr. Willis will be asked to inspect Mallard Point. Ms. Hill will draft a letter to all property owners stating that there might be easement encroachments on their properties.

**Mr. Cole left the meeting.**

Ms. Sanchez referred to the Cardno Inc., Professional Services Agreement and discussed termination of the Agreement.

**On MOTION by Ms. Godfrey and seconded by Mr. Marquardt, with all in favor, terminating the Cardno Inc., Professional Services Agreement, was approved.**

**EIGHTH ORDER OF BUSINESS**

**Consideration of SOLitude Lake Management, LLC, Lake Aerator Maintenance Agreement Termination**

Ms. Sanchez referred to the SOLitude Lake Management, LLC, Lake Aerator Maintenance Agreement and discussed termination of the Agreement.

**On MOTION by Ms. Godfrey and seconded by Mr. Marquardt, with all in favor, terminating the SOLitude Lake Management, LLC, Lake Aerator Maintenance Agreement, was approved.**

**NINTH ORDER OF BUSINESS**

**Consideration of Superior Waterway Services, Inc.**

This item was discussed during the Sixth Order of Business.

**TENTH ORDER OF BUSINESS**

**Discussion/Consideration of Lot Encroachments [Parrot Cay Lots 63, 65, 70 & 77]**

This item was discussed during the Second Order of Business.

**ELEVENTH ORDER OF BUSINESS**

**Ratification of Boat Dock Encroachment Agreements**

Ms. Sanchez presented the following agreements executed between meetings:

- A. 14475 Stillwater Way**
- B. 14384 Neptune Avenue**
- C. 14563 Stillwater Way**

On MOTION by Ms. Hill and seconded by Ms. Godfrey, with all in favor, the Boat Dock Encroachment Agreements for 14475 Stillwater Way, 14384 Neptune Avenue and 14563 Stillwater Way, were ratified.

**TWELFTH ORDER OF BUSINESS**

**Acceptance of Unaudited Financial Statements as of October 31, 2022**

Ms. Sanchez presented the Unaudited Financial Statements as of October 31, 2022.

On MOTION by Mr. Marquardt and seconded by Ms. Hill, with all in favor, the Unaudited Financial Statements as of October 31, 2022, were accepted.

**THIRTEENTH ORDER OF BUSINESS**

**Approval of September 1, 2022 Regular Meeting Minutes**

Ms. Sanchez presented the September 1, 2022 Regular Meeting Minutes.

On MOTION by Mr. Marquardt and seconded by Ms. Harmon, with all in favor, the September 1, 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: *Coleman, Yovanovich & Koester, P.A.***

There was nothing further to report.

**B. District Engineer: *Hole Montes, Inc.***

**I. Update: Hurricane Ian Inspection Report**

**II. Drainage Easements and Lake Conveyance Maps**

These items were not addressed.

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

- **Lingering Homeowner Issues**

This item was presented during the Sixth Order of Business.

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

- **NEXT MEETING DATE: February 2, 2023 at 10:30 AM**
  - **QUORUM CHECK**

The next meeting would be held on February 2, 2023.

A Special Meeting might be scheduled in January, pending Mr. Wright's findings.

**SIXTEENTH ORDER OF BUSINESS**

**Public Comments**

There were no public comments.

**SEVENTEENTH ORDER OF BUSINESS**

**Supervisors' Requests**

There were no Supervisor's requests.

**EIGHTEENTH ORDER OF BUSINESS**

**Adjournment**

**On MOTION by Ms. Godfrey and seconded by Mr. Inez, with all in favor, the meeting adjourned at 1:32 p.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

  
Secretary/Assistant Secretary

  
Chair/Vice Chair