

Naples, Florida

March 30, 1989

LET IT BE KNOWN, that the Pelican Bay Improvement District met on this date in a Workshop Session at 1:30 P.M., in the Naples Federal Savings & Loan Building, Fifth Floor, 5801 Pelican Bay Boulevard, Naples, Florida, with the following members present:

PRESIDENT:	James D. Hake
SECRETARY:	Ramer B. Holtan
	J. Russell Mudge
	James R. Dunwiddie
	Walter B. Potter

ALSO PRESENT: Mr. James P. Ward, Assistant District Manager; Mr. Joseph McMackin, Attorney for the District; Messrs. Tom Peek and Steve Means of Wilson, Miller, Barton, Soll & Peek; Messrs. Lou Hoegsted and Edward Griffith of Westinghouse Communities of Naples, Inc.; Mr. John Petty of the Pelican Bay Improvement District; and Ms. Jean C. Smith, Assistant Secretary.

AGENDA

1. Roll Call.
2. Consideration of Resolution Establishing Rules for the Purpose of Calling an Emergency Meeting of the Board of Supervisors.
3. Open Forum.
4. Adjournment.

ROLL CALL

Mr. Hake called the meeting to order at 1:30 P.M. and asked the record show all members present.

CONSIDERATION OF RESOLUTION ESTABLISHING RULES FOR THE PURPOSE OF CALLING AN EMERGENCY MEETING OF THE BOARD OF SUPERVISORS

Mr. Hake recalled for the Board that a draft of the Resolution Establishing Rules for the Purpose of Calling an Emergency Meeting of the Board of Supervisors had been distributed at the last meeting.

Mr. Holtan asked whether the Resolution had been reviewed by Mr. McMackin. Mr. McMackin responded he had prepared the Resolution.

There being no further discussion, Mr. Potter moved, seconded by Mr. Mudge and unanimously approved the "Resolution Establishing Rules For The Purpose Of Calling An Emergency Meeting Of The Board Of Supervisors".

OPEN FORUM

Mr. Hake commented that he had recently received a copy of an article from Time Magazine, dated March 20, 1989, entitled, "A Swamp Makes Waste To Be Sweet Again," from Mr. Rudy Small. Mr. Dunwiddie remarked he had also received a copy of this article from Mr. Small and it was basically the thing he had brought to the attention of the Board about two months ago. He advised, however, that the problem is that the District does not have an area, other than the Conservation Area, that is anywhere near large enough to do anything with this and the District's effluent does not meet the standards necessary to allow it to be dumped into the Conservation Area. Mr. Means advised that the Conservation Area west of the berm is classified by the State of Florida as Class II water and the current Florida Statutes prohibit discharge of effluent into Class II

water. Mr. Hake offered that this article does not identify any particular Class of water and he suggested that Mr. Ward write a letter to the group of people involved with this in California and get some answers because the article talks in great length about fighting the bureaucracy for many years to get this accomplished. He felt the article should not be passed over that quickly by assuming something when there were no assumptions outlined in the article and for the District to arbitrarily assume that this could not be done would be improper.

Mr. Hake asked Mr. Ward what was happening with Clam Pass. Mr. Ward replied that the County still has an application in with D.E.R. but no permit had been issued by D.E.R. to date. Mr. Potter commented that he had learned that there had to be a request to the Governor and Cabinet for the County to dredge beyond the mean high water line and the County had dredged as far out as they could and it had not seemed to do any good. Mr. Mudge offered that D.E.R. had also advised that the channel should be much wider and proposed a Study be made before the issuance of any permit.

Mr. Hake asked Mr. Ward if he would provide him with a Site Plan showing the future expansion of the Utility Site. Mr. Ward responded that he would see that Mr. Hake received a copy of the Site Plan.

Mr. Hake asked Mr. Ward if he had received any drawings of the proposed Foundation expansion for the north Boardwalk and the Commons, etc. from WCN. Mr. Ward responded that late last week he had received a copy of a Site diagram from WCN, for inclusion in the Conservation Advisory Committee's Agenda Package and he had requested additional copies and would send them to the Board when he received them. Mr. Ward also advised that

this issue had been discussed in great length by the Conservation Advisory Committee and the matter would be discussed at the April Board Meeting.

Mr. Hake asked Mr. Ward if he had received any plans for the northern Boardwalk. Mr. Ward replied that, to date, he had not seen any drawings. Mr. Hake commented that he would like to see the drawings, as the width of the present Boardwalk leaves a lot to be desired as there is no way an emergency vehicle can travel on the Boardwalk. Also, there was a question in his mind as to the availability of parking to support the northern Boardwalk. The Board asked to see the plans for the proposed expansion before approval by District staff.

Mr. Hake asked Mr. Means when he expected to have a report from Mr. Coburn regarding the street lights. Mr. Means responded that he had not received any time frame for the written Report from Mr. Coburn, however, he would ask him if he could have the report completed in two (2) to three (3) weeks.

Mr. Hake advised that he had recently received a summary of the District's insurance policies and he suggested a Committee be formed to investigate the insurance coverage and appointed Mr. Seymour Sekuler as the Chairman of the Committee and asked Mr. Holtan to serve on the Committee as the Board's representative. Mr. Hake commented that the expenditures for insurance are rather high and he asked Mr. McMackin if the District's Enabling Act requires that such large expenditures be put out for competitive bids. Mr. McMackin responded in the affirmative. Mr. Ward advised that forming Committees poses the District some administrative problems in terms of advertising the meetings, Minutes, etc. and he

suggested that rather than form a Committee have Mr. Sekuler and Mr. Holtan work together to investigate the coverages. The Board concurred with Mr. Ward's suggestion. Mr. Hake advised that if Mr. Sekuler needed help, he was free to entertain any additional outside help he required. Mr. McMackin remarked that he had recently brought to Mr. Ward's attention some changes in the flood insurance requirements which will require the District to insure full value rather than to insure above a threshold amount and advised that if the District has any facilities which require flood insurance the change would become effective May 1, 1989. Mr. Hake suggested that Mr. Sekuler and Mr. Holtan begin working on this matter immediately in order to meet the District's Budget deadlines.

Mr. Hake advised that all members of the Board had received a copy of his letter, dated March 17, 1989, to Mr. Burt Saunders, Chairman of the Collier County Board of County Commissioners, in reply to Mr. Saunder's letter which had been received just prior to the last meeting. He commented that if the Board approved of his letter, he desired a motion that the letter become an official document of the Pelican Bay Improvement District, rather than just an opinion from him.

At this time, Mr. Mudge moved, seconded by Mr. Dunwiddie, and unanimously approved that the letter written by Mr. Hake to Mr. Burt Saunders, Chairman of the Collier County Board of County Commissioners, dated March 17, 1989, become an official position of the Board of Supervisors. Mr. Hake asked Mr. Ward to send a letter to Mr. Saunders and all appropriate parties, informing them that the letter was adopted as an official position of the Pelican Bay Improvement District.

Mr. Hake asked Mr. Ward to write a letter to the Collier County Board of County Commissioners and ask them for the official completion date of the Hole, Montes & Associates Study, in order that the District can make their plans for the future.

Mr. Hake remarked that it was brought to his attention by Mr. Graeme Hunter, a member of the Conservation Advisory Committee, that in the fifth "Whereas" clause on Page 160 of the District's Enabling Act, it provides that Collier County, at their option, can take over the Pelican Bay Improvement District and merge it with their Water Commission. Mr. Hake asked if this was a correct interpretation. Mr. McMackin advised that Collier County can take over the District any time that they want to. Mr. Dunwiddie asked whether this meant that Collier County would assume all the District's debts. Mr. McMackin commented that Collier County could take over the District's operations and would have to make some provisions for paying the District's outstanding bonds, however, they could dissolve the District and assume the District's assets and liabilities. Mr. Ward commented that if the County desires to take over the District, they cannot do anything that is detrimental to the bondholders, thus, the existing indebtedness would either have to be taken over by the County or provided for in some way that would not be of detriment to the bondholders. Mr. Hake remarked that, if he recalled correctly, there were previous discussions held on this matter with the County and the County had taken a quick look at everything and told the District that with their debt there was no way they desired to take over the District. However, he remarked that subsequently the County has commissioned the Hole, Montes &

Associates Study.

Mr. McMackin remarked that his impression from talking to County personnel was that they would like to take over Pelican Bay and their possible motivation would be to keep the City from annexing Pelican Bay.

Mr. Hake stated that the Board has, in its permanent records, an opinion letter, dated February 18, 1987, from Mr. Tracy Bolesky, former Attorney for the District, regarding the Street Lighting District in which he concluded that the Pelican Bay Improvement District, under its Enabling Act, is responsible for installing all the street lights in Pelican Bay. Mr. Hake asked Mr. McMackin to give the Board his official opinion on this matter.

Mr. Mudge asked whether the District's Engineers and Mr. McMackin are paid to attend the meetings of the Board of Supervisors. Mr. Ward replied in the affirmative.

Mr. Mudge commented that he was happy to see the schedule for the preparation of the District's budgets. Mr. Dunwiddie asked that Mr. Ward submit budget assumptions to the Board, before the Budgets are prepared.

Mr. Mudge commented that Mr. Ward has previously emphasized the importance of a new Rate Study and he asked whether this is put out for competitive bids or whether the staff is satisfied with Coopers & Lybrand. Mr. Dunwiddie commented that he was not sure that the District will require the services of Coopers & Lybrand for the next Rate Study; that with the work the District has already accomplished, the procedures for reviewing rates are in place and, although he agreed that a review of the rates was necessary, it was his opinion this could be accomplished without the

services of Coopers & Lybrand. In response to a question by Mr. Mudge, Mr. Hake suggested that Mr. Mudge, with whatever help he needed, begin the rate review process, in order to meet the July deadline for the Water & Sewer Budget. Mr. Hoegsted commented that the District has spent a lot of money to put the framework for the rates in place so the District could update the rates every year and suggested that it might be helpful if Mr. Cumiskey of Coopers & Lybrand came down and spent a day with Mr. Mudge so Mr. Mudge could fully understand the Rate Study. Mr. Mudge advised he would think about this suggestion.

Mr. Mudge asked if the water used at Bay Colony is metered. Mr. Ward replied that the water is metered.

Mr. Mudge commented that he still desired that copies of all site plan approvals and monthly status reports on the progress of site plans and construction plans be given to the Board. He advised he did not desire elaborate reports but a simple report outlining when the plans were received and when they are expected to be approved. He also remarked that, as he understood it, the Board will now sign off on the plans. Mr. Ward advised that the Board had previously decided that staff would notify the Board by letter when the plans came into the District office for review and at that time the Board would have the opportunity to come in and review the plans. Mr. Mudge remarked that the Board was free to change this policy, however, they would try it this way first. Mr. Mudge asked whether the District currently had any plans under review. Mr. Ward responded that there were no plans currently under review.

Mr. Mudge remarked that at the last meeting, Mr. Ed Griffith had

indicated that he would provide the members of the Board with a map of Pelican Bay showing the easement areas, the hammocks, etc. Mr. Hoegsted stated this was addressed at the last meeting of the Conservation Area Advisory Committee and it was decided that the map which had been prepared showed too much detail, thus, WCN was currently in the process of getting the information to WMBS&P so they could generate a map with the appropriate easements. Mr. Mudge commented he liked detail and asked Mr. Ward to provide him with a copy of the map WCN had prepared. Mr. Dunwiddie also commented he would like a copy of the map.

Mr. Mudge asked whether there is any written policy on purchasing practices. Mr. Ward replied that there is no written manual. Mr. Mudge asked if all purchases were subject to Mr. Ward's approval. Mr. Ward responded in the affirmative. Mr. Mudge asked if the District had receipts for all purchases. Mr. Ward advised that any member of District staff who desires to purchase something must first submit a Purchase Requisition and once he approves the Requisition, a Purchase Order is then issued to the Vendor. Mr. Mudge commented that he assumed the Auditor's run test checks on the invoices. Mr. Ward commented that the Auditor's check the purchases.

Mr. Mudge asked who paid for the water lines which are in the ground, for example, at Las Brisas. Mr. Ward explained that the lines installed at Las Brisas were paid for by the District, as a number of years ago, the District had a policy whereby the District paid for the major mains as well as the subdivision facilities. However, as a result of the Rate Study, the Board subsequently changed the policy and today the

District pays for the major mains and the Developer pays for the subdivision facilities. Mr. Mudge asked who was going to pay for the lines at Bay Colony. Mr. Ward advised that in the Rate Study, Bay Colony is considered a major main and this area would be included in the financing of the District.

Mr. Mudge asked if there was a Conservation Area Policing Contract and whether the District was responsible for picking up litter in the Foundation area. Mr. Ward replied that the Foundation is responsible for picking up trash in this area. He further explained that the District has an Agreement with Collier County that provides that the District will maintain the Conservation Area outside the corridors of the Foundation. He advised that the District has a Financing Agreement with Westinghouse Communities of Naples, Inc. which states that the District will be reimbursed by WCN for costs, as outlined in the Agreement, which are expended in this area. He advised that he would send the Board members copies of these Agreements.

Mr. Mudge remarked he had a copy of a letter written by Mr. Miles Scofield to WCN, dated December 19, 1986, in which Mr. Scofield discussed the financing of the water and sewer lines and connection fees and in this letter he raised the point, why doesn't WCN pay for the major mains? Mr. Hake recalled for Mr. Mudge that this letter was discussed at great length in the Rate Study Committee meetings and it had been the recommendation of the Committee that the major mains be paid for out of the connection fees and as a result of the Committee's recommendations, the Board of Supervisors decided that the District should pay for the major mains as

part of the connection fees to insure payment of the debt service requirements on the bonds. Mr. Hake explained that with the overall reduction in dwelling units as a result of the revision of the PUD, there would have to be discussions on the amount of the connection fees and he did not feel this matter could wait until a Rate Study was performed. Mr. Hake asked Mr. McMackin if it was possible for the District, with the proper notifications, to arbitrarily set a higher connection fee, subject to revision at the time of the Rate Study. Mr. McMackin responded the Board could establish an interim connection fee, with the proper legal advertising. Mr. Hake remarked he would be in favor of Mr. Mudge getting together with Mr. Paul Cumiskey at the earliest possible opportunity so that Mr. Mudge could get a feel for how everything had been structured and so Mr. Mudge could come back to the Board at the next meeting with his recommendations.

Mr. Mudge asked how the irrigation water for the new Golf Course would be handled. Mr. Ward replied that WCN had not yet submitted irrigation plans to the District and no decisions on this matter had yet been made.

Mr. Holtan stated that in December, 1988, the Board had agreed that Mr. Moyer was to become a Consultant and no longer Manager of the District and Mr. Ward was to be the Manager protem, however, he was not sure that this had happened. Mr. Holtan asked whether Mr. Moyer was still the District Manager or whether he was now operating as a Consultant, and if so, what his fees were. Mr. Hake remarked that he did not recall that Mr. Moyer had been removed as District Manager, however, he did recall that

there had been a discussion that this might be an option. He also did not recall there had been a positive vote of the Supervisors to remove Mr. Moyer as Manager. He explained that he had been given the responsibility to review the District management and he had done a considerable amount of work on this matter, however, he was now "dragging his feet" waiting for the Hole, Montes & Associates Study and the comments on the Study by the City of Naples. He advised he would hate to make arrangements for a new Manager or with the present group of people and make a recommendation to the Board, if within six months to a year, the whole picture was going to change. He did not feel it would be fair to anyone to be brought into a situation like this and advised that when all of the information he needs is available he will be in a position to come back to the Board with a recommendation. Mr. Dunwiddie's recollection was that the Board had agreed that they needed full time management and that Mr. Moyer and the present personnel would work until a solution for full time management could be worked out. Mr. Holtan remarked that the reason he had brought this matter up was that he wanted to become current on the situation. Mr. Potter commented that he did not feel the Board should take any action on the management of the District at this time, and commended Mr. Ward for the fine job he has done under the uncertain circumstances.

Mr. Dunwiddie felt that the Board needed to take a look at the 5.7 factor used to calculate the rates for commercial parcels. He was bothered that the Study was done on a series of costs prepared by PBS&J and he personally did not trust any PBS&J Study, therefore, he felt that the Board really needed WMBS&P's input on the costs before the new rates could

be determined. Mr. Dunwiddie commented that he was the one on the Rate Study Committee who was opposed to the District paying for the trunk lines and he still felt this way, however, he advised that the District has since entered into a Contract with WCN, in which the District is specifically committed to providing for the trunk lines, and in turn, WCN agrees to pay the shortfall, if any, on the connection fees. He did not know whether or not the Contract could be broken. It was Mr. Holtan's opinion that Mr. McMackin should look into this matter, because he felt the Contract could be changed on the basis of changing circumstances. Mr. Ward offered that the Rate Study is based on the District's existing bond indebtedness and existing operating and maintenance costs and the rates did not need to be changed at this time due to a future bond issue; that these rates could be changed whenever the District does this bond issue. The Board concurred that this was a very complicated situation and Mr. Mudge was going to have to bring himself up to speed on this matter. Mr. Mudge asked Mr. Ward if he would send him a copy of the Guaranteed Revenue Agreement between the District and WCN.

Mr. Dunwiddie commented he liked the Budget schedule and he has long thought that the Board should have more input into the Budget process and he felt Mr. Ward should submit his budget assumptions to the Board a month before the Budget is submitted to the Board for their approval.

Mr. Dunwiddie asked Mr. Ward if he would write a Memorandum to the Board outlining what authority he thinks he has, i.e., what authority does the staff have to make decisions on the Board's behalf, how much money staff can spend, what staff can approve, etc. He did not think there had

been any formal authorizations for most of the things staff does.

Mr. Hake remarked he had a copy of a letter from Woodward & Woodward addressed to the Stratford regarding a sewer line encroaching upon adjoining property and although he did not feel this affected the District, he felt it might be worthwhile for Mr. McMackin to take a look at it and advise the Board if it affected the District in any way. The letter, in part, read as follows: "Please be advised that this law firm represents Gulf Bay Development Enterprises, Inc. in regard to the above. Gulf Bay Development Enterprises, Inc. is the legal owner of a certain tract of land lying adjacent to and to the east of the real property upon which the Stratford is located. Our Client advises that it recently discovered the existence of a sewer line running down the middle of its property. We have been informed that the sewer line originates from the Stratford Condominium and passes through our Client's property on its way to the PBID sewer system. Our title exam reveals absolutely no legal basis for the presence of such a sewer line across our Client's property. Accordingly, this letter is sent to demand within ten days of your receipt of this letter, that you advise us as to what steps will be taken to move the portion of such sewer line which encroaches upon our Client's property...." Mr. Hake commented this went back to the days of the Stratford when there were three separate parcels that were owned by the group building the Stratford. He advised the Stratford was built and the remaining parcels were subsequently taken over and foreclosed upon by the lenders, however, at the time the Stratford was built, they had constructed a sewer line across their own property. He advised Gulf Bay Development was now looking to the Stratford

to relocate the sewer line. Mr. Hake did not feel this matter had anything to do with the District, however, he wanted the Board to be aware of this problem.

Mr. Ward advised that this line is not part of the District's facilities but belongs to the Stratford and it is built on someone else's property and unfortunately the Stratford never received an easement for this sewer line. The Board concurred that Mr. McMackin should look into this matter.

Mr. Dunwiddie commented that at the last meeting he had reported that the plant was working reasonably well, however, since this report, it was now his opinion the plant was not working reasonably well, although the District is meeting the governmental criteria. He explained that in early February a level of foam had built up on the oxidation ditch which almost covers the ditch; the quality of the mixed liquor has deteriorated and quite a lot of solids are going over the weir. He felt the District is right on the edge of the capacity of the plant. He advised a test is planned for April 5th, in which staff will deliberately run up the volume of the plant and run two pumps for approximately two hours in order to see how far the boat clarifier is from meeting its design specifications. He advised the purpose of this test is to try and prove if the boat clarifier works or does not work. He advised that WMBS&P had recently called United Industries to ask them for their cooperation and, to date, United Industries had not expressed any willingness to cooperate. He also advised Mr. McMackin would be writing a letter to United Industries advising it would be a good idea if United Industries cooperated with the District.

Mr. Dunwiddie commented he will be driving to Texas the later part of next month and he would try and stop and speak with the people at United Industries if they would see him. Mr. Dunwiddie explained that one of the problems and the reasons for the poor settling sludge is that the Digester simply will not take the amount of solids that it should, as the Digester was never designed for this purpose and was put on line by the District and never contemplated for by PBS&J. He suggested one of the things being looked at was the use of an external clarifier. He advised that the problem is not this year, that the District will get through this year, however, the problem will be during next season.

Mr. Hake suggested that Mr. Dunwiddie might wish to stop at other similar Boat Clarifier installations on his trip to Texas and he offered that the Board would be willing to pay the expenses Mr. Dunwiddie might incur to stop and look at these installations. Mr. Dunwiddie suggested he might take a look at the Sarasota installation with Mr. Orach and Mr. Petty, however, he did not think the Sarasota plant was operating anywhere near design capacity. Mr. Petty indicated that the clarifier in Kansas City, Missouri was very similar to the District's, however, this facility was operated by United Industries.

Mr. Hake asked Mr. McMackin whether he had received any reply on his Cablevision letter. Mr. McMackin indicated he had not yet received any response.

Mr. McMackin felt it might be handy for District staff to prepare a Supervisor's Manual which would include such things as the Enabling Act, procedural Resolutions, the insurance coverage, calendar of significant

dates, etc. whereby all these documents would be in one booklet to which the Supervisors could refer for reference at the Board meetings. The Board concurred this was a good suggestion.

Mr. Hake commented he had looked at the list of District personnel and their responsibilities and suggested that in the near future he would get together with Mr. Ward to see whether or not everyone's time was being used properly because he felt that the office might be able to use an additional person. He also felt the computer operations should be looked at because many times the Board has asked for information and had been told the computers could not give the information they had asked for.

Mr. Hake advised that District personnel has recently been performing pressure tests for homeowners who are dissatisfied with their irrigation pressure and coverage and he felt that in all cases staff has satisfactorily answered the homeowner's concerns.

Mr. Mudge asked whether staff had contacted the Manager of the Sanctuary regarding her complaint of sand in the potable water. Mr. Petty replied that he had set up an appointment for Friday, March 31st to discuss this matter with her.

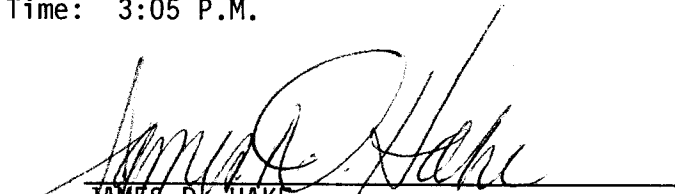
Mr. Potter asked District staff to notify the Golf Course regarding the hours they can water and the areas they can water under the Phase II restrictions, because he felt the Golf Course was not complying with the restrictions. Mr. Ward commented he would give them a call.

Pelican Bay Improvement District  
March 30, 1989

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ADJOURNMENT

There being no further business to come before the Board at this time, Mr. Dunwiddie moved, seconded by Mr. Holtan and approved unanimously that the meeting be adjourned. Time: 3:05 P.M.

  
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JAMES D. HAKE  
PRESIDENT  
PELICAN BAY IMPROVEMENT DISTRICT