

The Strand Neighborhood Representative Advisory Meeting

May 11, 2009

The purpose of this Neighborhood Representative meeting is two fold: (1) to update you on the litigation between the Master Association and The Strand Ltd; and (2) to update you on the current status of the community wide SFWMD permitting process.

In order to help you understand the issues and the current status, we have included as part of this summary some key points from the previous Irrigation Update #5.

HISTORY:

- In 1997, the South Florida Water Management District (SFWMD) issued an initial irrigation permit to the Strand Ltd (as developer) for the entire community. The acreage covered by the permit included the golf course and all future neighborhoods (with permission granted to install pumps in the various lakes around the community for the purpose of irrigating the neighborhoods).
- In the Fall of 2006, the Strand Ltd. revised the permit in such a way as to remove the neighborhoods from the permit (along with the prior permitted pumps in the lakes). After the revision, the permit authorized irrigation only for the golf course, 65 single family homes, the commercial properties and the Strand Blvd right-of-way. However, the Strand Ltd continued to count the irrigated acreage of the neighborhoods, so as to maximize the amount of allotted water for the permit. The Master Association received no notice that the permit was to be revised in this manner.
- Due to a water shortage restriction imposed by SFWMD in November 2007, the Strand Ltd. shut off irrigation water to those areas which remained on the revised SFWMD permit (namely: 65 single family homes; all commercial properties; and Strand Blvd.) The Strand Ltd claimed that these areas were using more than their allotted water and that the golf course needed all allowable water.
- SFWMD was contacted by The Master Association about the shutoff of water, but they advised us that there was nothing they could do. It was at or around this time that the Master Association first learned of the drastic revisions made to the permit a year earlier by the Strand, Ltd. The Master Association held a special meeting in December, 2007, and agreed to initiate legal action (an injunction) to require Strand Ltd. to turn on irrigation water to the affected areas.
- In March 2008, a court hearing was held which resulted in an order by the Court for all parties to go to mediation (Strand Ltd, Master Association, Commercial Properties).

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- Meanwhile, due to the shut-off, the 8 neighborhood communities (that currently have lake pumps for irrigation) had no choice but to file for separate irrigation permits to ensure continuous irrigation water in the future.
- The court-imposed mediation was held in May 2008. As a result of the mediation, the attorneys for the Master Association prepared a bullet list of potential agreements. By July 2008, however, the Strand Ltd. indicated that the mediation was at an impasse. The Strand Ltd. gave no reason for unilaterally terminating the settlement discussions.
- The Master Association met with SFWMD in September 2008, and agreed (at the SFWMD's suggestion) to combine all 8 neighborhood communities into one permit, issued to the Master Association.
- In October 2008, The Strand Ltd. offered to "settle" the litigation as long as the Master Association paid to the Strand Ltd a one-time charge of \$150,000, followed by annual payments by (a) the neighborhood associations of \$600 per year per multi-family unit and (b) the single family homes of \$840 per year per single family home. The Strand Ltd. claimed that the water in the lakes was owned by the Strand Ltd. and that neither the Master Association nor the Neighborhood Associations had any rights to the water. The Strand Ltd. made this claim notwithstanding the fact that, during development of the community, the Strand Ltd. granted the neighborhood developers the right to withdraw the lake water for irrigation purposes and the single family homes paid the Strand Ltd. a irrigation hook-up fee when the homes were purchased. The Strand Ltd.'s offer was not accepted by the Master Association.
- In April 2009, the Master Association proposed its own settlement offer to the Strand Ltd. The Master Association offered \$80,000 to end the litigation, as long as the Strand Ltd. (a) re-incorporated the Commercial properties and the 65 Single Family homes back into their permit (so as to continue to supply irrigation water to those properties); and (b) to cooperate with the Master Association regarding our own SFWMD permit application (for the 8 neighborhoods).
- The Strand Ltd. did not respond to the Master Association's settlement offer, which has now expired.

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CURRENT LEGAL STATUS

Since the Strand Ltd. has, in effect, rejected the Master Association's settlement offer, we will continue to pursue our community SFWMD permit and install the required re-charge wells.

To-date, we have spent approximately \$180,000 in associated legal fees. What benefits have we gained from this expenditure?

1. As noted above, due to the water shut-off in November 2007, the Master Association contacted SFWMD, which then reviewed the history of the water permit issued to the Strand Ltd.

Although the SFWMD stated that there was nothing they could do to prevent the Strand Ltd. from turning off the water (since it was the named permittee), the SFWMD also informed us that the 8 neighborhoods that did have lake irrigation pumps could secure their own permit and thereby ensure irrigation water in the future. The SFWMD warned that the permits must be obtained within a reasonable amount of time, or it would have no choice but to impose a fine and/or otherwise prevent the further operation of the pumps.

2. As a result of the legal action, we discovered that the Strand Ltd., although it removed the neighborhoods from its permit, continued to claim the same amount of irrigated acreage (so as to maximize the amount of allotted water under the permit). The SFWMD required the Strand Ltd. to reduce their permitted acreage and not claim lands they did not own (or that were no longer under its permit). This allowed us to move forward with our permits.

3. The SFWMD accommodated us because of the legal issues and thus allowed us to continue to utilize our irrigation pumps. It has also refrained from imposing any fines.

4. The Strand Ltd. started supplying the Single Family Homes, Strand Blvd. and Commercial with irrigation water again. Irrigation water has been flowing uninterrupted since May 2008.

5. The SFWMD has worked closely with us in developing the permit application and addressing our issues. At a September 2008 meeting with SFWMD, it was agreed (at the SFWMD's suggestion) to combine all 8 communities into one permit, thus saving costs.

6. During the discovery phase of the litigation, we discovered many legal documents that squarely refute some of the Strand Ltd.'s claims in this dispute. By way of example (and as mentioned above), we discovered contracts between the Strand Ltd. and various neighborhood developers which expressly granted the right to withdraw lake water for irrigation purposes.

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CURRENT PERMITTING ACTIVITIES

- In order to facilitate the permitting process, an engineering firm was hired by the Master Association and a revised permit package was prepared. Due to the magnitude of the irrigated lands (approximately 70 acres), SFWMD required that wetland and lake water studies be prepared. The lake water studies will determine if the selected location of the discharge of the wells are at a sufficient distance from the lake pumps to ensure proper mixing before being used for irrigation.
- As a prerequisite, it was agreed to install recharge wells to supply deep well water to the lakes in the same amount as is withdrawn. This will ensure that the preserve vegetation will not be affected by any drawdown of lake water (used for irrigation).
- The “recharge” wells (6) to supplement water withdrawn for irrigation will be located in the lakes by Trophy Club, Pinnacle, Clubside/Barclay, Single Family Homes (Marble Court, Whisperwood), Amberwood/Trophy Club, and Feathersound/Cypress Cove. The wells will be located on neighborhood properties and discharge directly into the lakes, below the lake water level.
- Engineering will submit to SFWMD details of the interconnection of all lakes such that additional wells may not be required.

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COST FOR PERMIT AND LEGAL FEES

Legal Fees:

To-date, we have expended approximately \$68,000 in litigation legal fees and approximately \$107,000 in permitting legal fees from December 2007 through March 2009. We anticipate another \$5,000 in fees from April and May 2009. This would bring the total legal fees to approximately \$180,000.

At this point, we anticipate minimal, additional legal expenses. However, should the Strand Ltd. challenge our pending irrigation permit from SFWMD or aggressively litigate, there is a risk that we will incur more legal fees.

Irrigation Costs:

We should have all studies completed with a response to SFWMD by the end of May 2009. Barring any further requests from SFWMD, we should have a permit within a few months. Work would then commence on the installation of the recharge wells by September 2009.

The current estimated cost for the permitted process is as follows:

Engineering	\$19,000.
Environment Studies	\$21,000.
Recharge Wells (6)	<u>\$150,000.</u>
TOTAL	\$190,000.

This cost is based on the installation of 6 – 6” wells, approximately 200 ft deep. These costs include all material, electrical and an allocation for landscaping around each unit.

The Master Association will be responsible for the power for the wells and filing any periodic reports with SFWMD.

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Cost Sharing of All Related Issues:

The Master Association Board has made a decision on how the costs for legal and permitting would be shared amongst the members of The Strand. At a meeting of the Master Association Board on April 28, 2009, a motion was passed by all directors present whereby:

- a. All litigation legal cost would be shared equally by all members of The Strand.
- b. All irrigation permitting costs including that portion of legal fees associated with the permitting process would be shared equally by the 8 communities that are part of the permit. This includes the following communities:

Trophy Club, Pinnacle, Wedgewood, Clubside, Single Family Homes, Cypress Cove, Eden, Feather Sound, plus 4 homes of Anna's Place.

Breakdown:

Item (a): For all members, the total shared cost would be approximately \$70,000 in litigation costs plus \$55,000 (estimated) in legal costs from the permitting counsel, for a total of \$125,000. The total dollars collected for legal fees via special assessment to all members in 2008 was \$107,200 plus \$13,000 from Commercial Properties.

Any remainder of dollars not spent from the special assessment would be held in reserve for any future litigation expenses in this matter.

Item (b): For the Master Association permitting process, the shared cost would be approximately \$190,000 for engineering, studies, and wells, plus \$55,000 in legal fees (estimated), for a total of \$245,000.

Therefore, all 8 Communities would share the Estimated Total \$245,000 or approximately \$300 per unit.

Please note that these costs are estimates based on the most current information. We are in the process of separating the litigation fees from the SFWMD permitting lawyer. A special assessment for any costs will be issued to the members once the permitting process is finalized.