

FAQ's

Q: I have heard and read that the Brooks CDD's water management (drainage) system is not operating properly. Does the system meet the requirements for water outflow that was required by Lee County and South Florida Water Management District? Are we in danger of flooding?

A: The Brooks storm water management system within the CDD's boundary is operating properly. There is ongoing review and discussion with both Lee County and South Florida Water Management District (SFWMD) concerning the proposed future rainfall related flows from east of I-75 and the flow capacity downstream from the Brooks, Halfway Creek (Coconut Point and westward) and along Three Oaks Parkway northward to the South Branch of the Estero River.

There are several considerations for addressing flooding. The first is to understand that the minimum design storm varies with the infrastructure. The minimum road elevation for the local streets is the five year storm or about 5.5 inches of rainfall in a 24 hour period. This requirement still allows for use of the roads in this type of rainfall by most vehicles. The minimum finished floor elevation is related to the 100 year-3 day storm event or over 13 inches of rainfall. This event will have water over most of the golf courses, roads and yards, but not inside buildings. As you can see the infrastructure is prioritized and given different levels of protection.

Q: Where does the water enter and leave the Communities within Brooks CDDs?

A: Brooks I is basically the southern half of Shadow Wood, all of Spring Run, the southwest corner of Copperleaf and Lighthouse Bay. All water entering Brooks I is by rainfall. Water from the southwest corner of Copperleaf flows south into the Lighthouse Bay storm water system. The Lighthouse Bay storm water leaves from a control structure in Lake 68, located in the southeast portion neighborhood. Spring Run storm water flows under Coconut Rd into the south portion of Shadow Wood. The south portion of Shadow Wood directs storm water through its lakes to a weir, CS-2B, located adjacent to the railroad tracks at the west end of Lake 28A to continue westward in Halfway Creek.

Brooks II receives input from rainfall and water flowing into the District from east of I-75. The flow through conveyance is an extension upstream of the Halfway Creek system. This conveyance serves the majority of the Copperleaf Community and the northern portion the Shadow Wood Community. Outflow from this system can leave two ways, north at the intersection of Williams Road and Three Oaks Parkway to the South Branch of the Estero River and westward into Halfway Creek. Water is discharged across structures RR-1, westward to Halfway Creek and OS-1, northward to the Estero River.

Q: Who is responsible for making the water management system just outside the Brooks boundary meet the flow requirements necessary to insure water is not prevented from leaving the Brooks?

A: The South Florida Water Management District has the responsibility.

Q: What laws must the CDDs comply with regarding the water quality within the Brooks and leaving the Brooks?

A: Water quality is currently reviewed jointly by the State of Florida's Department of Environmental Protection delegated through the respective water management districts and the United States Environmental Protection Agency (EPA). The SFWMD has specific design criteria that are used during the permitting process. Use of these design criteria provides a presumption of meeting State water quality requirements. This is currently under review and may change in the future. The United States of America's EPA has recently set numeric limits for total nitrogen and total phosphorus that is scheduled to take effect in February 2012. When these limits become enforceable, the

Brooks and all other communities will be required to meet them even though the infrastructure is already designed and approved.

Q: What will be required to meet the proposed standards from the EPA?

A: It is anticipated that there may be a combination of changes implemented to allow the community to meet these new standards. Some are as simple as not putting fertilizer into the storm water ponds directly or onto the streets. Other solutions may involve physical or chemical treatment of the water prior to discharge.

Q: Does the CDD own the land under the water in all lakes? Where does the CDD lake management responsibilities begin and the property owner's responsibility end for the land surrounding the lakes?

A: In most cases, the CDD owns the property underneath a lake. A property owner adjacent to a lake is responsible to maintain the property to the high water level of the lake. (This is typically where their lawn stops) A Homeowner should not maintain the land or plant material on the waterside of this line and instead should contact the CDDs with any questions or concerns they have with maintenance of the lake or the vegetation contained within it.

Q: Why does the CDD plant littorals along the edges of the lakes within the Brooks?

A: The CDD owns the lakes within the Brooks but not the water. The water is owned as it is throughout Florida by the State of Florida through the various Water Management Districts. The Brooks lakes were required by South Florida Water Management District (SFWMD) as part of rights granted for the Brooks property development. The CDD was created to finance the development of the infrastructure consisting of landscaping, roadways and roadway lighting (along Coconut Road and Three Oaks parkway only), and a water management (drainage) system. The CDD is required to comply with SFWMD permit regulations as it manages storm water runoff which emphasizes two primary objectives: to minimize flooding and to insure that all pollutants from Three Oaks, Coconut, and internal Communities (Copperleaf, Lighthouse Bay, Shadow Wood, and Spring Run) Roads and properties within these communities are treated and mitigated by the lake and plant system before they are discharged in the Gulf of Mexico Estuary. The CDD must also meet EPA regulations on water quality for a number of chemicals of which nitrogen and phosphorus are two key ones. Both of these chemicals are supplied by several sources including the fertilizers utilized on the golf course as well as lawns around homes in the Communities. The plants absorb these chemicals as well as others. The CDD is meeting all legal requirements for water quality within the system as well as the water we discharge from our system into Half Way Creek which connects to Estero River which in turn empties into the estuary

The CDD is responsible to maintain the lake edges to prevent erosion due to either rain storms, wave action caused by high winds, or by fish creating spawning beds. The littoral plants accomplish this through their root systems. Also the lakes are designed with a slope that minimizes plant growth once the water depth from bottom to surface exceeds 4 feet.

The plants also provide a protective habitat for aquatic life which supports the food chain within and around the lake. Especially important to lake health is the tilapia fish which eats algae. However, the tilapia is also an invasive species so we also must remove them at times to keep the overall fish type population in balance. You will note especially in February, March, and April how the fish provide food for the anhinga, cormorants, wood storks, herons, eagles, and osprey. They fly from lake to lake with the anhinga driving the fish to the shore line and the other birds standing in the littoral plantings picking off the fish.

Q: Why does "Scum" appear along the edges of the lakes?

A: "Scum" occasionally appears along the edges as a result of the CDD's Lake Management contractor spraying the edges to eradicate invasive weeds.

Q: Why do plants cover larger areas from time to time?

A: At times the littoral plants cover a bigger area than the year before. The rainy season frequency and amount of rainfall determines whether the amount is above or below average. When above average and lake levels are high the littorals grow back towards the bank where the year before they may have died. As a result the plants may extend from the edge of the lakes out to water depth of up to 4 feet, whereas within the first 20-24 inches have been dry and the plants have not grown in that area. Additionally, the success or density of the littoral plants around a lake or from lake to lake may vary depending upon, among other things, soil conditions, impacts from adjacent property owners, wildlife impacts or pipe work located beneath the water's surface.

Q: How do I know when Supervisors Seats are up for re election?

A: Public announcement, in a CDD meeting, is made no less than 30 days prior to the qualifying period and a legal section newspaper advertisement must be placed no less than 14 days prior to the qualifying period in the local newspaper. (in this case the Fort Myers News Press meets the legal circulation criteria) The CDD intends to provide additional notification, of it's future elections, through it's newsletter, website and email blasts. The ad for 2010 election for open seats was run 21 days in advance. The qualifying period is generally in the middle of June, approximately 5 months before the November election.

Q: How were the Community Development Districts (CDD) created?

A: The State of Florida created Community Development Districts (CDD) in 1984 as codified in Chapter 190, Florida Statutes. Chapter 190 CDDs with less than 1000 acres are established by the County or City in which they are located and those over 1000 acres are established by the Florida Land and Water Adjudicatory Commission. The Brooks CDDs were established adopted by the Florida Land and Water Adjudicatory Commission.

Q: What was the intent behind the creation of a CDD?

A: The intent of the legislation was to establish a growth management tool which ensured that growth paid for growth and provided an incentive for planned community development. At the onset of development projects the CDD can issue bonds in an amount necessary to finance all, or a portion of the cost(s) of construction of the public infrastructure improvements. To retire the bonds the CDD levies a non ad-valorem assessment against each property in the district, each year, which represents the pro-rata share of the cost of the publically financed infrastructure. When the CDD assumes the obligation to maintain some or all public infrastructure improvements, the annual assessment will include an amount for operation and maintenance of budgeted administrative, operational and maintenance costs.

Q: What is the Brooks CDD charter?

A: The CDD Charters are found in Chapter 190, Florida Statutes. Of all of the allowable powers, to date, the Brooks CDDs have been specifically involved in providing and/or maintaining infrastructure that consists of roadways, roadway lighting, storm water management, utilities (transferred to Lee County Utilities), security (some external fencing), landscaping, land /mitigation, parks and offsite improvements.

Q: Why do some southwest Florida developments have CDDs whereas others do not?

A: The establishment of a CDD is a business decision of the property owner(s) as it must be approved by 100% of the property owners at the time the CDD is being established. Therefore, CDDs are typically established when there is one owner (the developer). Though a large percentage of developers, in recent years and throughout the State, have recognized the short term and long term benefits in developing and managing a community, not all have chosen to utilize/establish them over their projects.

Q: What are the Communities and Neighborhoods within each of the two Brooks CDDs?

A: Please refer to the "Assessment Summary" sheets contained on the website (www.BrooksCDDs.net) that list the neighborhoods, by District, their assessment amounts, principle outstanding and remaining bond term.

Q: What portion on average of an owner's non ad valorem tax bill is for bond retirement versus operating and maintenance expense? What are the bond durations for each of the CDDs?

A: There are multiple Bond Issues within the Brooks, with varying amounts and maturity dates. Please refer to the "Assessment Summary" sheets contained on the website that list the neighborhoods, by District, their assessment amounts, principle outstanding and remaining bond term.

Q: Can the CDD use non ad valorem assessments to purchase recreational land within the Brooks?

A: Yes, as it did this last summer when it purchased the parcel next to the Town Center, and its recreational improvements, which is now referred to as Coconut Road Park in the CDD Budget.

Q: What is the duration and amount in an owner's non ad valorem assessment for the acquisition of the parcel of land next to the Town Center?

A: The amount of the CDDs assessment assignable to the financing of the Coconut Road Park is approximately \$58 for a 5 year period. (The final assessment for this purchase will occur in Fiscal Year 2015)

Q: How are Supervisors compensated?

A: By Statute, Board Members are entitled to be paid \$200 per meeting for their service, up to an annual cap of \$4,800 per year. For example, for Fiscal Year 2010, the CDD had 7 meetings scheduled, therefore, if a Supervisor attended all 7 meetings they would have been compensated \$1,400.

Q: Why Isn't Lee County maintaining the landscaping along the Coconut Road and Three Oaks Parkway right of ways within the Brooks Boundaries or at least paying for a portion of it?

A: To answer this question requires that you know the history and understand the series of events.

The Brooks (Developer) was required to construct the thoroughfares of Coconut Road and Three Oaks Parkway, these roads were always intended and required to become a part of the larger roadway network owned and operated by Lee County. These roadway improvements were included in the CDDs Revenue Bond Program and as such were acquired by the CDDs from the Developer.

Though the roads, sidewalks, drainage and signage had to be constructed to the standards of Lee County for eventual turnover, the Community/Developer was allowed to install an enhanced landscape and street lighting program, which it did with the intent that the community would bear all costs to maintain the upgraded program.

If the enhanced lighting and landscape program had not been allowed you would see a roadside landscape program similar to the one you see on Three Oaks Parkway South of the Brooks. (The lighting in that area is actually an upgrade, as the City of Bonita Springs is paying for that through an MSBU.) The standard lighting would be the municipal style concrete pole with the standard galvanized steel arm and halogen light assembly.

The enhanced landscape program has and continues to provide localized benefit to the Brooks residents in the form of enhanced privacy, traffic noise abatement and of course greatly improved aesthetics that have a significant effect on both improved property value and quality of life.

The CDDs certainly had and still have at anytime, under the current agreement with the county, the opportunity to remove the enhanced landscaping and lighting program from these thoroughfares and return the programs to the base level of service, as outlined in a previous bullet statement, and request that the County take over the maintenance. (Capital cost to remove and down grade the programs would be at the cost of the CDD/community)

In recognizing the value of these enhanced programs to the community and its residents, the CDD Boards voted unanimously to continue to maintain them and as a result the final turn over agreement with Lee County reserved the ongoing rights, with the CDDs, to own, operate and maintain these enhanced programs.

As is standard in these types of agreements, there is no consideration of a proportionate annual reimbursement from the County for the fact that they do not have to provide core level maintenance within these thoroughfares. It is typically seen as a cost of to an agreement such as this. (The CDD and other Community leaders will continue to submit periodic request for reconsideration.)

Q: Is it true that the Brooks Community assumed additional responsibilities or liabilities from the Developer and Lee County when the CDDs transferred Coconut Road and Three Oaks Parkway “roadways” to the County?

A: With regards to **additional** Community responsibilities or liabilities related to these thoroughfares, there isn't any. As a matter of fact there is less responsibility and liability exposure to the community following the transfer. First, the roadways (pavement and related signage) have been transferred to the County and they will operate and maintain these systems from their budgets, no longer a CDD/community expense and the County now assumes all liability related to the proper maintenance, marking and upkeep of the pavement system. Second, the community has always been responsible for the maintenance of the enhanced landscape program through a maintenance assignment agreement between the CDD and Shadow Wood Association (an entity that represented all 4 Brooks communities) as the administrator of the Joint Cost budget. As you are probably aware, and as was communicated in a letter from the CDD to all residents a few years ago, you paid for the maintenance through your association billings. The CDDs have since re-assumed the responsibility directly and as indicated above are collecting the revenues to support this program through their non ad-valorem tax assessments on your property tax bill. The prior arrangement with the Association managing the CDD owned facilities within these thoroughfares, actually opened up the community for the potential of two community representing entities being the subject of suits in the event of accidents and alleged negligence. With the CDD assuming the responsibilities and no longer assigning them, the community only has exposure through one entity, the CDD. Additionally, the CDD as a governmental agency, enjoys sovereign immunity protections that would limit claims against it to \$100k, per incident, \$200K in aggregate, unless increased by a special claims bill that would have to be approved by the legislature. Therefore, we have actually improved the community's position as it relates to both responsibility and liability.

Q: How many zones are in the Brooks irrigation system and for what period of time does each zone operate on a daily basis?

A: There are 128 irrigation zones along Coconut Road and Three Oaks Parkway, which the CDD is responsible for. On watering days, the system will start at 7 pm and end at 6 am the next morning.

Q: Does the irrigation system, during a single 24 hour period, irrigate the total acres of landscape within Coconut and Three Oaks right of ways?

A: With 128 total irrigation zones, the system is not able to water the entire project on any one given day. Therefore, the project is watered in two parts, with part of the project watered on one night and the other part of the project being watered on the next night. Currently, as of the date of this article, the entire project gets one watering per week, with part of the project being watered on Sunday night and the other part on Monday night.

Q: What is the CDD's boundary? Is the CDD responsible for maintaining the boundary outside the perimeter fences and cement walls around the Brooks perimeter? What is the amount of land outside the boundary for which the CDD is responsible?

A: Cumulatively, the CDDs boundaries mimic those of the entire Brooks Community, with each CDD overlying a specific portion of the overall community. In most cases the CDD is responsible for maintaining property just outside of the perimeter walls and fences. The property outside of these walls and fences, that is subject to CDD maintenance is typically 20 feet wide, running parallel to the fence or wall. The only exception to this would be the road right of ways along Coconut Road and Three Oaks Parkway which is obviously much wider.

Q: Isn't the existence of the CDDs and their annual assessments, a negative cost deterrent on home re-sales within the community?

A: People who do not understand the rationale behind the concept of a CDD, might be easily misled in to feeling that if there is a CDD, there is an increase in tax dollar expense albeit the CDD portion being non ad-valorem. Actually, the CDD does increase an owner's total property tax bill amounts but it does so while decreasing the master HOA fees in that same community. A line item expense is a line item expense be it an expense in a CDD or an expense in HOA fees.

Under the umbrella of a CDD, the cost of the infrastructure is taken out of the construction costs and financed through Community Development District issued Municipal Revenue Bonds, the repayment of which is addressed through an annual non ad-valorem assessment levied upon all benefitting properties within the CDD. When the Buyer closes on a new residence, that Buyer now typically assumes two capital liens, one being a mortgage, and the second being a prorated share of the bond through the CDD. One way or another (mortgage or CDD bond) the new owner is going to pay the cost for the infrastructure and the annual Operation and maintenance of that same infrastructure. A property owner may pay off their principal portion of the bond at any time but it is typically set up that the term of the bond will parallel the useful life of the infrastructure it is financing, typically 20 or 30 years. The annual repayment obligation runs with the property and therefore, is designed to pass through subsequent re-sales from the Seller to the Buyer (next owner). As a CDD starts to approach the end of the term of a bond, and in most cases the useful life of the infrastructure it initially financed, the CDD begins planning for infrastructure replacement, rehabilitation or upgrading and once again can utilize the CDD, as a governmental entity, to finance these cost over a long term and with tax exempt financing. This reduces a communities need to collect annual reserves for long term costs.

CDDs can cover common expenses to a master development such as 24 hour gated security, underground utilities and / or above ground utilities such as stop lights, care and maintenance of common areas such as major road right of ways through the master community, care and maintenance of the waterways in and through the community, etc. Each CDD can be different in what infrastructure items are covered by the district. Whether it is through the concept of a CDD or through a master association (HOA), an owner in the master community is going to have to pay these expenses. A CDD is a way to insure that the quality of life that one bought into, when they purchased in the community will be preserved.