

Updated Questions and Answers Regarding Hurricane Florence Special Assessment

November 7, 2018

The following are questions the Landfall Council of Associations Board has received from members of the Landfall community with regard to the special assessment levied in response to Hurricane Florence. Please reference the cover letter that accompanied that special assessment invoice, as well as the information below, regarding the expenses that we incurred due to damage to our common areas and the resulting special assessment.

Disaster Response

Q. Why did the Council commit to restoration work and related expenses that are outside of the normal operating budget?

A. It was in the best interest of the community to address the access, life safety, and private infrastructure issues immediately. Therefore, the Council authorized its staff to respond to the storm damage even before the storm arrived. It was not a viable option for the Council to wait until funding was established to commence the work.

Q. What was your process for selecting the contractors who are working for us to complete the cleanup, road repairs, and repairs to our infrastructure?

A. Recognizing that reliable resources would be difficult to secure in the aftermath of the storm, we arranged contractors in advance to respond to the debris clean up, road repairs, and stormwater facilities repair that we anticipated would be immediately necessary. In selecting those contractors, we prioritized companies with whom we have an established history and level of trust. We also intentionally selected pre-vetted contractors, who were already familiar with our infrastructure and could therefore deal with the unknowns associated with the cleanup more efficiently. Because of our decision to select the contractors in advance of the storm, some of them actually had staff and resources available in the Council's administrative office during the storm in order to respond to emergency situations and begin clearing the roads as soon as it was safe to do so.

Q. Did the Council solicit bids from multiple primary contractors for the restoration work?

A. No. We selected contractors for debris clean up, road repairs, and infrastructure repairs in the very short period between the time that it was evident that we were going to be hit directly by the storm and the time the storm arrived. We selected contractors we know and trust based on prior relationships, based on reasonable terms for an undefined scope of work, and based on availability. This approach facilitated immediate availability of reliable contractors during a time when demand for those contractors would be at a peak. In light of the extent of damage to the Carolinas, and the limited resources available to all of us to complete restoration and repair work, we are grateful that we elected to lock in these contractors prior to the storm.

Q. Did the Council negotiate a fixed price with the third party contractors for their services?

A. No. The scope of the work was not determined at the time we hired the primary third party contractors, and therefore negotiation of a fixed price for a certain scope of work was not an option. We hired contractors we trust based on prior experience, and are monitoring their work, and their billing for the same, diligently.

Sources of Funding

Q. Will the City of Wilmington or FEMA be assisting with the cleanup up within Landfall?

A. Based on the guidance available to us thus far, Landfall will not be reimbursed by FEMA for debris removal or other storm expenses. FEMA has issued a disaster-specific policy for Hurricane Florence that established debris removal from private roads (except gated communities) is in the public interest. We will continue to pursue possible recovery from FEMA, but do not expect to be granted assistance. **As of the date of this update, we have submitted a claim to FEMA for assistance to a non-profit corporation. This claim is currently pending. The next step is for FEMA to assess our eligibility. For the reasons described above, we do not anticipate a favorable response.** Please note that our claim with FEMA is independent of any that you may choose to pursue on your own behalf, based on damage to your home or other losses related to the storm.

We have pursued assistance from the City with regard to debris removal and will continue to do so. Notwithstanding the City's policy against removal of collected debris from private gated communities, we successfully negotiated with the City, prior to the storm, to cooperate with Landfall to remove debris from a central location (specifically, the collection site behind the Landfall Council offices). **While it is still too early to determine for certain, we estimate that this assistance from the City will save the Council over \$700,000 in debris removal costs.** Our estimated cost of debris cleanup for the

special assessment takes that cooperation from the City (and related savings to us) into account.

Q. Can you provide us with an update on any assistance from the City of Wilmington?

A. The City has begun hauling off vegetative debris from our facility and will continue to do so until the debris is removed. We have continued to seek additional assistance from the City beyond this hauling and disposal work, and beyond their current policy. While it does not appear likely that we will obtain any additional assistance from the City for the cleanup from this storm, we are hopeful that the dialogue may lead to a commitment for greater City assistance to Landfall in response to future storms.

Q. Will the County assist in funding for our cleanup?

A. We have sought assistance from the County for help with the cleanup and they have denied our request. The County is assisting with cleanup in the unincorporated areas of the County, but not within the City of Wilmington.

Q. Why is the Council not utilizing the balance in our reserve fund?

A. The reserve fund has been established and cultivated over the years for the purpose of funding long term maintenance of our infrastructure (repaving roads, inspection and repairs to stormwater facilities, building roof replacement and other long term maintenance items, etc.). Those maintenance needs remain, and, based on our reserve study, we still have work to do to bring the balance of our reserve account up to meet those needs. The reserve is not, and never has been, intended to serve instead as a disaster relief fund.

We do not maintain a "hurricane fund" for the sake of response to catastrophic loss caused by natural disasters. Every disaster event is different, and the costs of response to the same are not predictable. It is not realistic, or economically responsible, to maintain a fund to cover the potential cost of catastrophic events. Furthermore, to maintain such a fund would require a substantial increase in assessments. There is no room in our budget to accommodate funding such an account. Finally, from a policy perspective, that approach would also unfairly shift the risk of storm damage to those who own property at the time the funds were collected, and away from the owners who own land in Landfall at the time of the storm.

Q. Why do we not carry insurance for the risk of the kind of damages that we suffered to the common areas?

A. We carry insurance for our shared common areas to the maximum extent that it is realistic to do so. Based on the advice and guidance of our insurance brokers and providers, it is not possible to insure the damages to horizontal improvements (roadways,

sidewalks, and the like), and underground facilities, and storm debris cleanup costs, that we suffered in Hurricane Florence. These matters fall within standard exclusions to available policies, or are simply not available with any carrier.

Q. How will insurance coverage mitigate the community cleanup costs?

A. Insurance covers limited aspects of the damage to our common areas caused by the storm, namely the vertical building structures. Fortunately, the majority of our buildings sustained limited or no damage. We have filed a claim for the wind and rain damage to the Council of Associations' office, and the anticipated recovery from our insurance carrier for the same is noted in the summary provided with the special assessment. We have also pursued a claim for damage to other structures: perimeter fencing, the Drysdale gate, the postal facility and others. The cost of these damages is relatively small relative to the total cost of the disaster response, and recovery from our insurer for these matters is uncertain. Nonetheless, we are pursuing this potential opportunity to help defray some of the total cost of the storm.

It is possible that your personal insurance coverage could cover some of your cost of the special assessment. Please investigate that topic with your personal insurance providers.

Q. Does the COA have an emergency line of credit?

A. The COA does have a \$500,000 line of credit. **The COA has had a \$500,000 line of credit dating back to 2011, as the COA recently switched banks, this line of credit is now with BB&T.**

Q. Why did the Council decide against borrowing money to respond to this disaster?

A. The COA elected not to rely on its line of credit or other loan financing to cover the cost of the response to this disaster. From a policy perspective, borrowing against our future would burden the community for many years to come, and would essentially compel future owners to shoulder the burden of the damage caused this year. And, we decided that it would be fiscally inefficient to incur the transaction costs and interest payments necessary to borrow funds on behalf of all of the owners. Those who can pay their share immediately should not be compelled to incur the cost of borrowing.

Special Assessment Details

Q. What is a "full share member" and how was the amount of my assessment calculated?

A. The total anticipated funds needed to respond to the disaster are \$3,825,000. The formula for allocation of special assessments is the same as that for the COA semi-annual assessments. The vast majority of lot owners (1,957 of us) pay the same "full share member" rate. Per the terms in their community documents, the owners in Colony Club each pay a 2/3 share. The Kenan Chapel pays a 1.05 share. And, the Country Club of Landfall pays 32 shares.

Q. Is the applicable assessment rate the same for all owners, or does it vary based on the value of a lot or home, extent of damage in a particular section of the community, or other factors?

A. Subject to the 2/3 share applicable to the Colony Club owners described in the question and answer above, the applicable assessment rate for all lots and homes is the same. This is the same formula that is applicable to your semi-annual assessments. The Council does not have any discretion to adapt that formula based on other factors.

Q. Will a detailed expense and accounting report be provided and made available to all owners?

A. Yes. And, more importantly, please know that the Board is closely monitoring the expenses and working with our staff to manage the costs appropriately. Please reference the interim progress report, included herein, on our hurricane restoration effort for an update on the work performed and expenses incurred to date.

Q. Why did you not provide a detailed expense report to the owners prior to levying the special assessment?

A. We decided that commencement of the work immediately was in the best interest of the community, so that work could be completed as soon as reasonably possible. That decision necessitates collection of a special assessment based on a "best estimate" of the total cost. It was not a viable option for us to delay reestablishment of safe access and restoration of our infrastructure until we could assess the entire scope of the work and obtain a fixed price contract to complete that work.

Q. If the amount collected on the special assessment exceeds the actual cost of response to the hurricane, what happens to the additional funds?

A. Any additional funds would be transferred to our reserve account.

Q. If the amount collected via special assessment exceeds the actual cost of the restoration work, why not return the excess to the residents who paid the special assessments?

A. We discussed this option with our legal counsel prior to levying the special assessment, and, consistent with the advice of our attorneys, elected not to commit to return of any funds in the unlikely event of an excess. Transfer of any excess funds to the reserve account is clearly authorized by North Carolina law. The legal authority for possible disbursement of excess funds back to the residents paying the special assessment is not so clearly authorized. While no excess is anticipated, the Board decided that it is in the best interest of the community to apply any excess to our reserve account. As noted in the notice of special assessment, the Council has committed to apply any excess to that reserve account.

Q. Why do we have to pay the assessment now, rather than after completion of the work?

A. The expenses are being incurred on a daily basis, and billed to us promptly by the contractors. We do not have the luxury of waiting until the restoration is complete to pay for it. In order to get this volume of work done promptly and efficiently, we must be prepared to make timely payments to the contractors.

Q. Why did the Council levy only one special assessment, rather than assessing a portion of the cost now, and the remainder after the final costs were determined?

A. A special assessment is a remarkable and, thankfully, rare action. As you can imagine, the Council was reluctant to levy one special assessment, let alone two. Beyond the unpleasant impact on our neighbors of finding a special assessment notice in the mailbox, there is also some meaningful transaction cost and inefficiency with each special assessment. Most importantly, the community needs the funding for this work now. While we are confident that all of you will pay your special assessment, we must plan for the reality that some will pay sooner than others. The total cost of this restoration work is tremendous, and it is substantially front end loaded. As of November 2, we have already incurred \$2,694,707 of the anticipated total expenses.

Q. Is \$3,825,000 the real anticipated cost of the restoration work, or did you incorporate some cushion or inflation?

A. As painful as it is for all of us, that is the real number.

Q. Is the special assessment going to cover the cost of removing trees from the golf course or any Country Club of Landfall property?

A. No. The Country Club of Landfall is a separate entity and is responsible for their own cleanup and debris removal.