

## **MINUTES OF THE REGULAR MEETING OF THE SOUTH INDIAN RIVER WATER CONTROL DISTRICT HELD ON NOVEMBER 17, 2016**

The regular meeting of the South Indian River Water Control District was held on November 17, 2016, at 7:00 p.m. at Jupiter High School, 500 North Military Trail, Jupiter, Florida. Present were Supervisors Steve Hinkle, Tom Powell, Michael Ryan, John Meyer and Mike Howard. Also present were Amy Eason, engineer; Charles Haas, treasurer; William Capko, attorney; Terry Lewis, attorney; Mike Dillon, manager of operations; Donna DeNinno, public information; and Jane Woodard, secretary. Several landowners were also present.

Mr. Hinkle called the meeting to order and the Pledge of Allegiance to the flag was given.

Mr. Capko called for ratification of the election results. Mr. Meyer made a motion to accept the results provided by the Supervisor of Elections. Mr. Powell seconded the motion and it carried unanimously. Mr. Lewis conducted the swearing in of the newly elected Board members, Mike Ryan and Mike Howard. Mr. Hinkle called for the election of officers. Mr. Howard made a motion to nominate Mr. Hinkle as president and Mr. Ryan as vice-president. Mr. Meyer seconded the motion and it carried unanimously. Mr. Ryan made a motion to retain Ms. Woodard as secretary. Mr. Meyer seconded the motion and it carried unanimously. Mr. Hinkle called for committee appointments. He suggested Mr. Howard for the Policies & Procedures Committee, assisted by Mr. Meyer, and the Board agreed.

Mr. Ryan made a motion to approve the consent agenda, consisting of the October minutes and warrant list. Mr. Powell seconded the motion and it carried unanimously.

Ms. DeNinno presented the public information report. She requested Board approval of the "Welcome to the District" letter and there were no objections. This letter will be sent out annually to new landowners.

Mr. Haas presented the treasurer's report. He discussed a policy for accepting debt assessment prepayments (see memo attached). He noted there have been requests from the real estate industry to prepay these assessments prior to the real estate closing. Mr. Haas suggested this practice be stopped; any new financing would be set up for the landowner to prepay only before financing. After a brief discussion, Mr. Powell made a motion to adopt this change in policy. Mr. Ryan seconded the motion and it carried unanimously. The policy will be effective January 1st. Mr. Haas noted there is no relevant financing pending at this time.

Mr. Dillon presented the manager of operations report. The new John Deere boom mower has been received. The culvert crossings at Canals 6 and 13, and at Canals 8 and 10 have been completed. He noted this will help with maintenance operations.

Mr. Ryan asked how other districts are handling paving issues. Mr. Dillon stated Indian Trails Improvement District is the only one compatible with SIRWCD. For landowner-initiated projects, the petition acts as a referendum and the District does not finance any capital improvements. The petition has to be signed by more than 50%. All funds must be received up front. Only those in favor of the paving pay for the project. Everything is up to the landowners to achieve. Mr. Dillon noted that other districts only deal with water control, not paving projects.

Ms. Eason presented the engineer's report. A \$1.3 million contract has been signed with Hardrives, Inc., the low bidder for the 18th Plan. The referendum for the 19th Plan has been sent out and responses are due by December 9th .

Ms. Eason met with Strategic Realty Services representing the Jupiter Farms Shopping Center POA and with the representative for the Calvary Chapel Church of Jupiter regarding an equestrian bridge. The property owner is petitioning SIRWCD to construct an equestrian bridge over Canal #1. Ms. Eason presented pictures of the shopping center and the 1996 site plan which shows a bridge. The site plan updated in 2009 shows an equestrian trail, which does not exist. The bridge in the plan is 25' across but there is not sufficient room unless the property owner

is included in the plan. There is no room for any trail without an additional right-of-way easement. There is an agreement with another adjacent landowner in order to perform maintenance. At this time the Shopping Center is looking for direction from the Board. Mr. Hinkle noted there is a crossing at Canal #2. The Canal #1 crossing allows bikes, etc. into the shopping plaza. The bridge gives access to bikes to stay on the west side of the road. Mr. Meyer suggested the right-of-way could be expanded. It would be up to the POA to coordinate this as they are the permittee. Ms. Eason stated any bridge needs to be approved by SIRWCD. Mr. Lewis stated SIRWCD has no legal obligation to build a bridge, but the Shopping Center needs our permission to build. If SIRWCD grants authority to build a bridge, with any grant of easement to SIRWCD on that property, the District needs to consider the liability for maintaining that easement. Mr. Lewis stated this is a policy decision for the Board to make. Mr. Howard noted the bridge is a requirement for the Shopping Center and SIRWCD only needs to approve a permit to build the bridge. The District needs to have access for maintenance purposes. The Board discussed expanding the right-of-way which would require easements from the landowners in order to widen it. Mr. Dillon noted a bridge would only minimally impact maintenance. After further discussion, Mr. Hinkle instructed the staff to research this matter further before the Board makes a decision. Ms. Eason stated the Shopping Center is just looking for a letter from the Board saying it agrees with the site plan and that they could essentially get approval from SIRWCD. Mr. Powell felt there were unanswered questions at this time. Mr. Meyer was concerned that the letter should give approval in concept only. He made a motion authorizing the bridge conceptually, subject to being given sufficient information for review. Mr. Ryan seconded the motion and it carried unanimously.

Mr. Capko presented the attorney's report. Mr. Lewis presented legislative amendments for the Board to review. Both versions require Board members to be residents continuously while sitting on the Board. One version requires two members from the west side, two from the east side, and one member at large. All landowners would be eligible to vote for all candidates. The second version provides that only landowners from the west side can vote for the candidates from the west side, and the same with the east side. All landowners would be eligible to vote for the candidate at large. Mr. Lewis stated the next step is to take the proposed amendment to the Palm Beach County delegation. That deadline is November 28th, and their hearing is December 19th. Mr. Lewis recommended proceeding only if there is unanimous support from the District. Mr. Powell felt there is a problem with disenfranchising residents. Mr. Meyer was in favor of the first option. Mr. Ryan was concerned that the Jupiter Park of Commerce and Egret Landing should have some representation. Mr. Lewis stated he could modify the legislation to allow for the at-large candidate to be a landowner but not required to be a resident. Mr. Howard was concerned with having two candidates each from the west and east sides because most of the District is on the west side. The requirement currently is one candidate from the west, one candidate from the east, and three candidates from either side. There was further discussion by the Board as to the proposed change in make-up of the Board. Mr. Lewis also addressed taking the balloting process out of the hands of the Supervisor of Elections, and instead using a forensic auditor who has no interest in the District. Mr. Ryan was concerned about excluding anyone who is not a registered voter. Mr. Meyer was concerned about accountability if the Supervisor of Elections is taken out of the equation. Mr. Lewis stated he would prefer more time to review these matters with the Board and cover all the issues before proceeding with a change in the legislation. After further discussion, Mr. Meyer made a motion to proceed at this time, in concept, and direct the attorneys to prepare the legislation for this session. Mr. Ryan seconded the motion. Messrs. Powell and Howard did not support the motion and stated they wanted to wait before proceeding. Mr. Lewis recommended waiting to proceed until the Board is unanimous.

Mr. Ryan asked if there is a way around the liability issue in order to allow recreational use, i.e. fishing, off the cattle bridge. Mr. Lewis stated this would take an act of legislation. The Board requested staff to see if there is a way to do this. Mr. Hinkle made the following statement regarding the Board's road paving policy: "After completing the 18th Plan of Improvement and working on the 19th Plan of Improvement, I have come to the conclusion that these Plans of Improvements are taking too much staff time and Board meeting time. Our District needs to refocus on water control, especially our secondary water control system. As time progresses, we need to ensure our quality of surface water runoff remains in the acceptable levels as it has in the past. We need to stop spending so much energy and time concerning whether a dirt road gets paved or it remains a dirt road. Under the proposed policy, all funds to cover the costs will be required prior to paving and landowners not wanting the improvement are not

required nor can be forced to pay for the improvement. There are other special districts that use this policy for paving.” Mr. Hinkle proposed a new policy to create a systematic procedure to apply for road surface upgrades (see attached outline). Mr. Howard stated this policy has a potential for cost savings by refocusing the District’s efforts. It follows the policy of Indian Trails Improvement District. He felt the current process is a waste of time and a duplication of services. He also felt that a 50% requirement would lead to neighbors working together. Mr. Ryan agreed and added that this policy pushes the landowners to take responsibility and expedites the process. Mr. Meyer stated that paving has become a distraction because the Board tries to accommodate those who want paving. He added that the District’s Special Act is for water control and Chapter 298 does not address roads. Mr. Powell stated this policy is designed to stop road paving. He recalled when the legislative delegation first heard arguments about this issue and decided it was wrong for a five-member Board to decide on paving; the democratic way would be for the landowners to decide on paving by means of a referendum. Mr. Powell felt the landowners should still be the ones to decide on a policy change like this. He noted that the referendum process has worked well over the last 30 years. Mr. Hinkle stated the legal advice is to establish a moratorium. A lengthy discussion followed regarding the cost of paving, landowner rights, and the focus of the District. Mr. Ryan then made a motion to adopt this proposed policy change, effective immediately. Mr. Howard seconded the motion, stating the Board sets policy and does not have to go to the landowners every time there is a question. The Board continued to discuss this policy change. Mr. Howard suggested eliminating the five petition limitation within a fiscal year and the ½ mile provision.

Mr. Lewis stated that pursuant to Chapter 298, Board policies should be adopted by resolution. It would be appropriate to conduct a public hearing for something as important as this. Mr. Ryan then amended his motion by a resolve to move forward and have a public hearing. In the meantime, the Board will not accept or move forward with any paving projects. Mr. Howard seconded the amended motion and it carried unanimously. Mr. Hinkle noted the December Board meeting is a workshop for ethics matters; the next meeting open to the landowners is in January. It was agreed to have a public hearing at that meeting.

Mr. Hinkle noted that the Loxahatchee River District is considering putting in a sewer line at the elementary school crossings and this issue may be coming before the Board for discussion. He also noted there was no opportunity for landowner comments at tonight’s meeting because of the late hour. The meeting was then adjourned.  
ADJOURNED.

## **Preamble to Road Paving Policy**

After completing the 18th Plan of Improvement and working on the 19th Plan of Improvement, I have come to the conclusion that these Plans of Improvements are taking too much Staff time and Board Meeting time. Our District needs to refocus on water control especially our secondary water control system. As time progresses, we need to ensure our quality of surface water runoff remains in the acceptable levels as it has in the past. We need to stop spending so much energy and time concerning whether a dirt road gets paved or it remains a dirt road.

Under the proposed policy, all funds to cover the costs will be required prior to paving and landowners not wanting the improvement are not required nor can be forced to pay for the improvement. There are other Special Districts that use this policy for paving.

Steve Hinkle

# **SIRWCD - Enhanced Stabilization (Paving) Policy**

## **I. PURPOSE**

To create a systematic procedure for South Indian River Water Control District's Landowners to apply for road surface upgrades on "District Roads" (no more than ½ mile in length).

## **II. PROCEDURE**

The South Indian River Water Control District Board of Supervisors hereby establishes the following:

1. A simple majority or more of the property owners must agree to have the road paved.
2. No roadway will be considered for paving unless the drainage swales and road base are considered suitable for paving by the District's Operations Manager and Engineer.
3. Paving shall be in accordance with the design and specifications approved by the District Engineer.
4. Should a roadway need additional work, the owners may:
  - a. Pay the additional costs of these improvements in addition to the paving.
  - b. Wait until the roadway has been completed as part of the District's road operations and maintenance program approved by the Board of Supervisors.
5. The Board of Supervisors approves the Petition after Staff review.
6. The District shall receive 100% of the cost of paving (grading, asphalt, spreading, rolling, etc.) in advance of the work being undertaken.

## **III. ADDITIONAL CONSIDERATIONS**

1. The District shall consider no more than five (5) petitions for paving within a Fiscal Year. This limitation is imposed based on current Staffing and workload considerations. Additionally, petitions may not be considered until the following Fiscal Year due to work schedules.
2. There will be no financing from the District.
3. Petitions are only for one road.
4. The funds will be held in escrow in a noninterest bearing account until all costs are collected. If all funds are not collected within a year of approval, funds will be returned less administrative/staff fees incurred by the District.
5. Those landowners who do not want the improvement are not required nor can be forced to provide funds.
6. District Roads do not qualify for traffic calming devices after paving.
7. Paving a road does not abandon or reduce the annual road maintenance assessment on landowner's Non Ad Valorem taxes.