

MINUTES OF THE REGULAR MEETING OF THE SOUTH INDIAN RIVER WATER CONTROL DISTRICT HELD ON FEBRUARY 16, 2017

The regular meeting of the South Indian River Water Control District was held on February 16, 2017, 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 Michael Howard. Also present were Amy Eason, engineer; Charles Haas, treasurer; William Capko, attorney; Mike Dillon, manager of operations; Laura Bender, public information; and Jane Woodard, secretary. A number of landowners were also present.

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

A motion was made to approve the consent agenda which included approval of minutes from January and the treasurer's warrant list. The motion was seconded and carried unanimously.

Ms. Laura Bender presented the public information report. She reminded everyone that Family Day is set for March 18th.

Mr. Dillon presented the manager of operations report. Culvert replacement will continue through May and begin again in September. An "Active Shooter" seminar was presented by the PBCSO. They will be evaluating our facility and commenting on upgrading to make it more secure. Steps are being taken to create more water storage in the District including working with SFWMD and LRD to enhance water quality.

Ms. Eason reported on the 18th Plan. Hardrives is in the process of constructing roads now, getting close to the final lift of asphalt. This is expected to be complete by the end of the month.

Ms. Eason discussed the 19th Plan which originally consisted of 3.6 miles of roadway in Palm Beach Country Estates and Jupiter Farms. Since the referendum, the Plan now includes 76th Trail N., 78th Drive N., 154 Court N., 159th Court N., 160th Street N., and 175th Road N. There are now two miles of roadway with 87 assessable lots for a total of \$940,000, resulting in financing of \$1,575/year for 10 years. She requested direction from the Board.

Mr. Hinkle called for landowner comments. Mr. Stan Weinstein from 76th Trail N. stated he voted in favor of paving but neglected to sign his ballot prior to mailing. Ms. Mary Carlo commented that residents were not notified of any action until they received the referendum ballot. She presented signed documents from three neighbors who do not want paving. She also noted one home was sold after the owner voted in favor of paving and the new owner was not informed. She also questioned why there would be paving without swale work. Mr. Scott Scovill was not in favor of the Plan. He noted that owners can vote and then move the following week. Ms. Kathleen Baxter Marvel stated she received a threatening letter from a neighbor. She also noted that HB 879 and Florida's Chapter 298 give the Board jurisdiction to do many things but there is nothing that addresses paving. She believed the voting on 159th Court was flawed. She called for the Board to take its duties seriously. Mr. Charles Bratten stated he voted in favor of paving but did not sign his ballot so it was not counted. He wanted a procedure established whereby an affidavit would be accepted in circumstances like this. Ms. Jennifer Gusikoff stated she initiated the petition for 159th Court. It was submitted in February of 2015, followed all the rules, and obtained the required percentages, even after the rules changed. One of the residents moved after voting but she believed the real estate closing agent disclosed this information to the buyer. Mr. Hinkle asked Attorney Capko for his opinion regarding a revote. Mr. Capko stated if a petition has 51% of affected residents, it doesn't have to go to a referendum. There is no authority to change results based on an unsigned ballot. Mr. Howard stated if the Board allows a revote, it is setting a precedent for landowners who do not like an outcome. Mr. Capko noted the precedent would only be for landowners to request a change; the Board is not required to comply. Mr. Meyer was in favor of a revote for this one particular street. Mr. Capko stated the Board could have the complete referendum process undertaken again or it could request a petition from 51% of the affected residents, thus eliminating the need for a referendum. Mr. Ryan was in favor of a new petition and Mr. Powell agreed this would be the most effective way to handle this. Mr.

Powell made a motion to accept a new petition for this one road, in a form certified by the Supervisor of Elections. Mr. Ryan seconded the motion. After a brief discussion, the motion passed 4:1 with Mr. Howard voting against. Mr. Powell then made a motion to proceed with the 19th Plan; Mr. Ryan seconded the motion. A lengthy discussion followed regarding the sale of property after a petition has been initiated, and making adjustments to an approved Plan, i.e. removing roads or parcels from the Plan. It was noted there are several public hearings before a Plan is finalized. It was also noted that the engineer could present the pros and cons of changing the length of a road and/or excluding parcels. The vote on the motion was called for and it carried unanimously. Mr. Powell made a motion to adopt a resolution to formally direct the engineer to proceed and prepare the 19th Plan. Mr. Meyer seconded the motion and it carried unanimously.

Ms. Eason reported on the Loxahatchee River Water Restoration Plan. Mr. Hinkle was concerned about the LRD putting in a sewer line. Mr. Dillon reported he has spoken with the director and there is no action to pursue a forced main in PBCE or Jupiter Farms. The school property on Haynie Lane has been put on the shelf as well. Mr. Meyer suggested a workshop meeting within the next year to discuss how things are going on this issue and the Board agreed.

Mr. Capko presented the attorney's report. He stated there is nothing else to report other than what has been discussed. Mr. Hinkle asked if everyone has to be assessed in a benefitted area. Mr. Capko stated the landowners have to be equitably apportioned and assessed, regardless of whether they want the benefit or not. Mr. Hinkle noted that in the past there have been corner lots that received a 50% discount. Mr. Capko stated the Board has the discretion to assess according to the benefit received, e.g. if a second paved road is not providing as much benefit. He also noted that if there is private or no financing, the District would not be levying an assessment.

Mr. Hinkle discussed the District's proposed road paving enhanced stabilization policy. He noted receiving 105 emails and the majority of them were in favor of his proposed policy as previously discussed. He expressed concern for landowners who cannot afford an additional expense and also noted this policy would not stop paving, only financing by the District. No rights or benefits would be taken from the landowners. Mr. Ryan was concerned with saving staff time and money, and believed the solution would be to stop financing paving projects. Then those who want paving would have to pay for it themselves. Mr. Howard thanked the landowners who sent letters to the Board, and believed there were suggestions not yet considered. He presented several adjustments to the previously proposed policy (see attached Policy 7.1.2). He agreed that it is unfortunate that someone who doesn't want paving has to pay, but that is the standard, not the exception. Only Indian Trails and a county in Oregon handle projects where landowners are required to provide/obtain their own financing; everyone else assesses. Mr. Hinkle noted landowners should have access to a paved road within ½ mile. Everyone pays for paving the major roads. Mr. Powell noted that landowner emails provided proof that this policy is controversial. He believed the current proposed policy is short-sighted and could be improved. He applauded Mr. Howard for the time spent preparing policy amendments. Mr. Powell pointed out that when the District's Special Act passed, it was about the ability of the District to finance paving projects and sell bonds. Mr. Howard's plan still leaves the ability for people to have paving, and accomplishes everything Mr. Hinkle wanted in the current proposal. Mr. Meyer discussed the pros and cons of the two policies. He appreciated the detail in Mr. Howard's proposal as it sets a threshold more in line with the County. He felt the District's thresholds have made paving too easy and some landowners' rights have been violated. He stated Mr. Hinkle's proposal puts the financial burden where it belongs but it also makes it very difficult to pursue paving. It also allows the Board to get back to dealing with water control. Mr. Howard's proposal is more in line with the County's thresholds and gives more opportunity for paving. Mr. Meyer was concerned with the Board having the ability to initiate paving if it was related to water control. Mr. Capko stated future paving would have to assist the District in maintaining the function of water control. Mr. Powell noted that the District's previous engineer, Len Lindahl, put together a booklet to define OGEM as maintenance material, so the District could spend maintenance funds to use it. There was a brief discussion regarding OGEM and asphalt as maintenance, and the assessments for maintenance material. There was also further discussion regarding corner lot benefits, utilizing Board time in implementing the policy, and the issue of financing. Mr. Ryan concluded Mr. Hinkle's policy was simpler as it eliminates District financing and the Board would not have to address future problems. Mr. Hinkle was also concerned about discrepancies in ownership of roads and easements. Mr. Howard

then made a motion to accept his policy proposal and Mr. Powell seconded the motion. Mr. Capko stated he reviewed Mr. Howard's proposed policy and recommended adopting it conceptually so the Board and staff can "tweak" it to answer as many questions as possible. Mr. Howard amended his motion to adopt the policy conceptually, and Mr. Powell seconded the motion. Mr. Hinkle stated he wanted a workshop to discuss this matter. Mr. Ryan stated he was against adopting the policy conceptually or otherwise. A vote was called for on the motion and it passed 3:2 with Messrs. Hinkle and Ryan opposed. Mr. Capko will prepare a final proposal and present it to the Board at the next meeting. Mr. Howard will work with Mr. Capko to prepare the proposal. The Board agreed to a workshop meeting on March 9th at 6:00 at the District Work Center.

Mr. Hinkle asked Ms. Eason to address where the 19th Plan roads are located and have them surveyed so swales can be done in advance prior to construction.

Mr. Haas stated there are debt payments due to Wells Fargo on April 1st. Two of these payments are final payments for the 2004 road programs. He will send a memo for processing the checks.

There being no further business to come before the Board at this time, the meeting was adjourned.

ADJOURNED

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SIRWCD - Enhanced Stabilization Policy

Policy 7.1.2

I. PURPOSE

To create a systematic procedure for South Indian River Water Control District's Landowners to apply for road surface upgrades on roads maintained by SIRWCD.

II. PROCEDURE

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

1. No roadway will be considered for enhanced stabilization unless the right of way width, drainage swales, and road base are considered suitable by the District Manager of Operations and the District Engineer.
2. Enhanced stabilization shall be in accordance with the design and specifications approved by the District's Manager of Operations and Engineer.
3. Should a roadway need enhancements to be considered suitable for the project as determined by the District's Manager of Operations and Engineer, the landowners must pay the costs of these improvements in addition to the cost of the enhanced stabilization project.
4. Enhanced stabilization projects require a petition with more than 50% of the benefited landowners in favor of the project. Petitions shall be submitted to the District's Manager of Operations requesting the project. Petitions shall be on a District-approved form which provides a preliminary estimate of paving costs provided by the District's Engineer and state whether or not the project will be financed by the District. The Board of Supervisors approves or denies the Petition after the District's Manager of Operations and Engineer review, verify, and make recommendations.
5. After a successful petition, Board approval, and review by the District's Manager of Operations and Engineer, the proposed project is sent to referendum with ballots reflecting assigned benefits and estimated costs and/or assessments. A successful referendum under this policy requires an affirmative vote by more than 80% of benefited landowners for passage.
6. There are two options for funding a project. The choice between project prepayment or District financing must be part of the initial petition request and the choice clearly noted on the petition and referendum ballot:
 - a. District financing: benefited landowners will be assessed for their portion of the actual cost of the project over the term of the financing secured by the District. Landowners who wish to pay their portion of the project without financing charges must submit their portion of the project to SIRWCD prior to District financing of the project. Payment due dates will be announced to affected landowners.

b. Projects not financed must have all estimated costs paid in full prior to the project being added to a Plan of Improvement.

7. Petitions for landowner initiated enhanced stabilization projects will be available from the SIRWCD office on the first business day in February of each year and must be returned to SIRWCD by the last business day in April of the same year. Petitions meeting the requirements of the District's Manager of Operations and Engineer will be presented for approval of the Board no later than August 31 of the same year. Once approved, referendums will be mailed via certified mail to benefitted landowners. Landowners will have at least 30 days to return a completed referendum ballot with the date due for return clearly noted on the envelope and/or referendum ballot.

III. ADDITIONAL CONSIDERATIONS

1. The District Board of Supervisors has the right to deny any landowner initiated project with or without reason.

2. Petitions are only for one road section, defined as a continuous section of roadway of the same street name. Road sections considered for enhanced stabilization shall connect to existing stabilization of equal or greater durability on at least one end and be made up of a logical section of roadway (i.e. - ¼ mile, ½ mile, road of greater connection within the community, 4-way intersection, etc.).

3. For projects not financed through SIRWCD, no landowner can be required by SIRWCD to provide funds. Funds collected for these projects will be held in escrow in a non-interest bearing account until all funds are collected and paid out. All funds must be collected by SIRWCD within one (1) year of a successful referendum. If adequate funds are not collected, the collected funds, less administrative, staff, and other fees or costs incurred by the District, will be returned. In the event of a project exceeding the budgeted amount, the additional funds needed to complete the project will be collected as an assessment on the benefitted properties. Funds in excess of the project cost will be refunded proportionally to the amounts paid by each payor.

4. Projects financed through SIRWCD are generally assessed on a per parcel benefitted basis although a per acre benefitted or per foot of benefitted frontage basis may be used as determined by the Board of Supervisors.

5. Landowners must wait a minimum of 3 years before a section of a road which failed in referendum may be included in a new referendum.

6. Neighborhood plans approved by the Palm Beach County Commissioners shall be considered by the SIRWCD Board of Supervisors when making decisions about project approvals.

7. District Roads do not qualify for traffic calming devices.

8. Paving a road does not abandon or reduce the annual road maintenance assessment on a landowner's Non Ad Valorem taxes.

9. A public record notice will be filed for all benefitted properties within a project upon a successful referendum.

10. Landowners may choose to utilize a road paving program provided by Palm Beach County.