

## MINUTES OF THE REGULAR MEETING OF THE SOUTH INDIAN RIVER WATER CONTROL DISTRICT HELD ON MAY 18, 2017

The regular meeting of the South Indian River Water Control District was held on May 18, 2017, at 7:00 p.m. at Jupiter High School, 500 North Military Trail, Jupiter, Florida. Present were Supervisors Steve Hinkle, John Meyer and Michael Howard. Also present were Charles Haas, treasurer; Amy Eason, engineer; William Capko, attorney; Mike Dillon, manager of operations; Donna DeNinno, public information; and Jane Woodard, secretary. Approximately 36 landowners were also present.

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

Mr. Hinkle opened the public hearing for the proposed 19th Plan of Improvements. Ms. Eason presented an overview of the 19th Plan which consists of 2.4 miles of asphalt for 76th Trail N., 78th Drive N., 154<sup>th</sup> Court N., 159th Court N., 160th Street N. and 175th Road. The estimated cost is \$470,000/mile with 95 assessable lots. The estimated payout is \$13,300. After the public hearing tonight, the engineer's report will be filed, followed by a second public hearing.

Mr. Hinkle stated three out of four landowners on 159th Court submitted no-paving requests. He was in favor of shortening the paving on that section. Mr. Meyer stated since the referendum went through, it should not be pulled from the Plan. He admitted this is a controversial issue. Mr. Howard stated the Board should consider removing those four parcels from the Plan. He noted there would be a section paved in the middle of nowhere and this does not meet previous Board guidelines. Mr. Meyer noted that segment of road does not connect on either end, but policies and statutes were followed at the time. He questioned why this was not stopped when it was first initiated three years ago. Mr. Howard stated there was discussion in the past and the staff turned it over to the Board to decide. It is now the Board's job to uphold the policy of the District. Mr. Hinkle noted that 159th and 154th are not feeder roads. Mr. Howard also stated there are concerns about 76th and 160th because of an unsigned ballot and piecemealing which does not meet the Board's criteria. Mr. Hinkle suggested just removing the western block. He opened the floor to landowner comments.

Mr. Jack Cox, an attorney representing the Carlo and Scovill families on 159th Court N., presented a position letter (see attached). He stated there was an amendment in April which changed the affirmative requirement from 50% to 90%. Since there was no vested right to a paved road prior to that time, the new rule should apply. It was his position that there can be no public hearing on the issue tonight because there was not a 90% vote. He further stated this is a procedural issue and the petition should be disregarded. Ms. Kathleen Marvel asked the Board to consider the intent of the law as discussed by Mr. Cox. She stated there is a group of landowners who strongly support this position as paving will diminish their quality of life. Ms. April Jamason supported the policy of owners paving their own roads in PBCE. She asked the Board to stay with what the landowners voted for. Mr. Jorge Rodriguez stated the majority should rule. The requirement to pave is set at 90%. He asked how many votes the Board members received in the election. Mr. Rodriguez became boisterous and Mr. Hinkle asked him to leave but he refused. Other landowners protested that he was being asked to leave and Mr. Hinkle then stopped the meeting and called for a police officer. Mr. Rodriguez continued to speak about constitutional rights. Mr. Capko informed him that his comments did not relate to the 19th Plan being discussed at this time. A police officer arrived and escorted Mr. Rodriguez from the meeting. Mr. Hinkle resumed the meeting.

Ms. Bonnie Alvarez from 154th Court N. questioned how rules can be changed every year and how the landowners are expected to meet those requirements. Although her street voted in the majority, it is obvious that the Board does not want paving. She also questioned why so much time is spent preparing new procedures when the Board could just say there is to be no future paving. It was her opinion that landowners voted for the paving and the Board is nitpicking now as an excuse to get out of paving. Landowners have been waiting five years for this paving. Ms. Jennifer Gusikoff stated 159th was the first petition in the 19<sup>th</sup> Plan. All requirements were met along the way, following the District's directions. An attorney was hired who said everything was being done legally. They were told it would be better for maintenance if there was a connection to a paved road so that is what they did. She

asked the Board to do the right thing now. Mr. Charles Bratten on 76th Trail N. stated he requested paving procedures in October, 2015. At that time a petition required only 35%. This was obtained but then the policy was changed to 50%. That was then obtained and there was a referendum. Then the Board changed the policy regarding corner lots. The policy now requires 90%. He noted his road only has eight lots so even obtaining seven votes out of eight does not reach 90%. He stated he was sorry for the person with a corner lot on 159th who voted for paving and now may have the Board deny it, resulting in \$25-30,000 in property value that he won't receive. He did not believe there will be another chance for paving for these landowners. Mr. Martin Spiro stated that many people moved here to be on dirt roads. Now there are owners who want paving and everyone is being assessed. Neighborhoods are being turned into war zones. He felt there should be an immediate policy change so landowners wanting paving would have to get their own financing and pay for it themselves. Ms. Kristen Atwood stated the Board always has the option to remove any portion from the Plan that is felt to be unsafe. Regarding 159th, she questioned paving a road that does not stop at a logical point. It is dangerous, especially at night, to go from a dirt road onto paving. Mr. Roberto Abberante from 154th Court N. stated the policy first required 35%, then went to 50%. The referendum passed so it should be paved. It is a road going to other paved roads. He agreed it is a financial burden but maintenance does nothing for the road and that costs money too. Dirt roads aren't safe and the dust is not good for breathing problems. He asked the Board to do what they said they would. Mr. Jose Cabrera stated the Board should consider if the District's legislation is affected by changing the rules. The Board should show evidence that it is following the rules. This is an opportunity for the staff to review the non-applicability of the laws.

The Board then continued its discussion of the Plan. Mr. Meyer asked attorney Capko to give his opinion on the position presented by attorney Cox. Mr. Capko stated he disagreed. The Board made it clear that while the 19th Plan was going to referendum, any changes would be prospective and not impact a project going to referendum. Changes requiring 90% do not impact the 19th Plan. Mr. Meyer questioned the safety issues discussed regarding 159th Trail where it would not connect to pavement. Ms. Eason noted it connects to pavement on one end. Going north would be the quickest route, and going south would lead to a paved road. If speed limits are observed, safety should not be an issue. Mr. Howard stated the Board's job is to do the right thing and be accountable. An increase in property value is outside the scope of the Board. There were issues with the 19th Plan from the beginning. Rules were changed midstream. Mr. Meyer stated there was only one retroactive change: the voting requirement from 35% to 50%. Mr. Hinkle stated the landowners did what they needed to do and voted. Some details need to be worked out, but the Board needs to have the engineering report and the second public hearing before fine tuning the Plan. Mr. Meyer noted he received an email from a landowner who does not want paving on 159th because of hardship. He questioned if the Board can address this and possibly exclude them from the Plan. Mr. Haas stated this has never been done before. Mr. Capko stated there are statutory provisions for hardship cases so someone can obtain relief through the property appraiser's office. The District cannot relieve a property owner of the responsibility to pay. Mr. Meyer made a motion to adjourn the public hearing. Mr. Howard seconded the motion and it carried unanimously.

Mr. Hinkle then opened the Board meeting. Mr. Howard made a motion to approve the consent agenda which included the warrant list and minutes from the April meeting. Mr. Meyer seconded the motion and it carried unanimously.

Ms. DeNinno presented the public information report. The website now includes a page regarding septic maintenance. She continues to review the Policies & Procedures Manual with the District staff.

Mr. Haas presented the treasurer's report. He discussed the budget calendar and noted there was a suggestion by Mr. Meyer for a new program in the water control budget. Mr. Meyer recommended that the staff present ideas to improve drainage, storage, and the overall system. Storage is a major problem due to continued construction and he would like the budget to reflect this. Mr. Dillon noted that build-out in the District is now over 90%. Low lots used to be retention areas but now they are being filled. He has been concentrating on secondary swales and the culvert replacement program. Swales were designed to retain some water. The District used to focus on canals but now the focus is on swales and outfall easements, especially in PBCE. There are areas that are encroaching on these

easements with fences and sheds. He asked those landowners to work with the District. There will be an article published in "The Farmer" as well as in the District and HOA newsletters. Mr. Hinkle suggested re-recording all easements and rights-of-way so people know what they have when land ownership is transferred. Mr. Haas agreed this issue should be reflected in the proposed budget which he expects to present at the June meeting.

Mr. Dillon presented the manager of operations report. He requested ratifying the purchase of a 2000 dump truck. Mr. Meyer made a motion to approve the purchase. Mr. Howard seconded the motion and it carried unanimously. Mr. Dillon reported he reviewed the Canal 13 right-of-way erosion issues. He surveyed the property and determined that it extends into Canal 13. He recommended stabilizing the bank and has received several quotes for the work. Ms. Eason recommended riprap around the pipes and Mr. Hinkle suggested riprap on both sides. It was clarified that this is an issue caused by the District's system, not erosion from the landowner's property. Stabilization would protect our system. After a brief discussion by the Board, Mr. Dillon was asked to obtain new quotes to reflect this additional work. Mr. Dillon then introduced Mr. Tim Kendall. Mr. Kendall discussed 90th Trail N. at the entry to Riverbend Park. After a referendum in 2012, 90th Trail N. was paved but it was short on the ends and has only 35 feet paved on a 200-foot lot. Ms. Eason suggested it could be paved along with 175th during the 19th Plan. Mr. Howard questioned if this is considered maintenance or if the Plan of Improvements needs to be reopened. The Board agreed there is a need to pave that section and the staff was asked to look at options to be discussed at the next meeting.

Ms. Eason presented the engineer's report. She gave an update of the 18th Plan. She is waiting for records drawings and then the Plan will be ready for the final payment. Ms. Eason discussed the 19th Plan and requested approval to prepare the engineer's report. She suggested the second public hearing be held at the June meeting. Mr. Meyer made a motion to move forward with the engineer's report. Mr. Howard seconded the motion and it carried unanimously.

Ms. Eason discussed the Loxahatchee River Water Restoration project. She explained this is headed by the Army Corp of Engineers and SFWMD. She is currently on two subcommittees to review projects being proposed. One project restores minimum flows to the Loxahatchee River through the G92. This reduces flood protection. Alternative plans will be looked at and she will provide the Board with specifics as to how this will impact the District. Ms. Eason is also involved in the Loxahatchee River Reasonable Assurance Plan. The District's outfall canal is adjacent to that area. It impacts Jupiter Park of Commerce and Egret Landing. She explained that this plan looks at redoing the boundaries and this will affect SIRWCD. The Board will eventually have to decide if it wants to be a stakeholder, but this is in very preliminary stages right now.

Mr. Hinkle discussed possible signage for fishing. Mr. Capko will check to see how this affects liability for the District.

Mr. Meyer asked about scheduling a workshop and Ms. Eason will discuss this at a later time. The next Board meeting was scheduled for June 29th and will include the public hearing for the 19th Plan.

Mr. Capko updated the Board on the legislative session. One bill that would have added layers of advertising did not pass. Mr. Howard discussed the park in PBCE and was concerned about liability for the District. He would like to keep track of larger organized events that are being held there such as fundraisers and commercial events. Mr. Capko stated permits could be required for specific events, and the District could also require insurance and/or a fee. Mr. Howard would like to have rules established for reserving space for organized events. There being no further business to come before the Board at this time, Mr. Meyer made a motion to adjourn. Mr. Howard seconded the motion and it carried unanimously.

ADJOURNED.