

**MINUTES OF THE REGULAR MEETING AND BUDGET HEARING
OF THE SOUTH INDIAN RIVER WATER CONTROL DISTRICT
HELD ON AUGUST 20, 2020**

The regular meeting and budget hearing of the South Indian River Water Control District was held on August 20, 2020, at 7:00 p.m. via Zoom video conferencing. Present were Supervisors Steve Hinkle, Tom Powell, John Meyer, Michael Howard and John Jones. Also present were Amy Eason, engineer; Charles Haas, treasurer; William Capko and Seth Behn, attorneys; Mike Dillon, manager of operations; Donna DeNinno, public information; and Jane Woodard, secretary. One landowner was also present via Zoom conferencing.

Mr. Hinkle called the budget hearing to order.

Mr. Hinkle confirmed that all Board and staff members were present. He read a statement that the meeting will be conducted consistent with the Governor's Executive Order 20-69 and as extended by Executive Orders 20-139 and 20-166 issued due to the outbreak of Covid-19. Mr. Hinkle then read the rules for conducting this meeting.

Mr. Hinkle opened the public hearing on the budget. Mr. Haas presented slides illustrating the budget process. He noted that preliminary assessments will be provided for the TRIM bill, and the final assessments will be given to the Tax Collector after the Board adopts the budget. Assessments in the maintenance funds are the same as last year or lower, except for the Jupiter Farms road maintenance fund which is increased. The debt service funds are lower because there is only one bond issue affecting the whole community: the water system refunding bond issue from 2015. All other debt instruments are for individual roads. Improvements to Canals C and E in Palm Beach Country Estates come under the capital projects fund. Jupiter Farms will have \$50,000 for the re-engineering plan follow-up, and \$80,000 for improvements to the LRPI project area. Mr. Haas presented slides indicating the proposed budget expenditures.

Mr. Haas then presented the proposed budget showing the four areas in the District with their different types of assessments: Jupiter Farms, Palm Beach Country Estates, Egret Landing, and Jupiter Park of Commerce. The total assessment for PBCE is expected to decrease by \$40,000; Jupiter Farms is expected to increase by \$34,000; Egret Landing and Jupiter Park of Commerce are only assessed for drainage and will have reductions of \$12,000 and \$8,000, respectively. Slides were presented showing how the individual funds will be affected. Mr. Haas had prepared a form for landowners to use if they wish to calculate the estimated assessment for their own property based on their acreage, road maintenance and applicable debt service. He then concluded his presentation and asked for questions from the landowners. There were no landowner questions. The supervisors were then asked for their questions or comments and there were none. Mr. Howard made a motion to adjourn the public budget hearing. Mr. Powell seconded the motion and it carried unanimously.

Mr. Hinkle convened the regular board meeting.

Mr. Matt Gitkin, landowner, stated it was difficult to absorb the budget presentation without a preliminary review prior to the meeting. He requested landowner access to other reports in advance of the

meetings so they can have questions ready. He also noted he was unable to publish the Zoom link for this meeting to Jupiter Farms residents online. Mr. Hinkle stated the Board is following the format of South Florida Water Management District in this matter, but he will see if the Board can do better for future meetings.

Mr. Powell made a motion to approve the consent agenda. Mr. Howard seconded the motion and it carried unanimously.

Ms. DeNinno presented the public information report. She noted it would be possible to have email registration for the Zoom meetings through the website but putting a link out for anyone to use could be an issue unless registration can still be controlled. The summer newsletter has gone out with information about the annual budget. It also contained changes to the Solid Waste Authority guidelines due to questions raised last month. Supervisor of Elections information was also included. The Policies & Procedures Manual has been modified to provide clarification on drainage and irrigation connections to the works of the District, and to add requirements for pump connections. The website is being updated and Ms. DeNinno asked the supervisors and staff to review and provide any updates to their biographies to her by email.

Mr. Haas presented the treasurer's report. He asked the Board to consider an RFP for selecting an auditor. He explained state law says competitive selection is required with a fixed term contract including extensions. He suggested a term similar to that in the past: four years for the initial term plus two three-year extensions for a total of ten years. Either party can opt to not continue with the contract. State law requires a selection committee with at least one Board member. No employee or chief financial officer may be on the committee. Mr. Haas proposed the Board chairman (Mr. Hinkle) and the Budget Committee members (Messrs. Jones and Powell) comprise the selection committee. Mr. Howard was concerned that more than one Board member would be on the committee and this could violate the Sunshine Law. Mr. Capko stated if there is a meeting to discuss and review proposals, that meeting should be noticed. It was suggested the committee could meet in conjunction with a Board meeting that was already noticed. The Board agreed with Mr. Haas' proposal, and Messrs. Capko and Haas agreed to be the conduits for the committee to pass comments through. Mr. Howard made a motion to set up the selection committee as discussed. Mr. Meyer seconded the motion and it carried unanimously.

Mr. Dillon presented the manager of operations' report. He attended a KMPG audit regarding Hurricane Irma and they are releasing \$48,000 related to administrative costs.

Ms. Eason presented the engineer's report. She proposed Webex video conferencing as the best option for conducting the annual landowners meeting. It is similar to what SFWM uses. It can set up registration and have a record in case there is a need to vote. The video can be stopped, and the audio muted. If there is a motion to vote on, a poll can be taken. Mr. Hinkle asked how this system would handle proxies and Ms. Eason explained this would be set up prior to the meeting. Persons holding a proxy would pre-register. Ms. DeNinno requested these details so it can be on the website and sent out in a release. Mr. Powell stated the notice for the annual meeting should explain how voting will be handled and add that registration prior to the meeting is required at the District office. Mr. Howard asked how the Sunshine Law affects Board members who are together in the waiting room prior to the meeting. Ms. Eason explained it is similar to the Zoom meetings when, prior to the convening of the meeting, she is making

sure everyone is connected and able to participate. For voting purposes, Mr. Hinkle noted that the total acreage is shown on the proxy which is preregistered and approved as to amount of acreage. Mr. Capko stated that the original notice for the meeting did not state how it will be held and landowners were advised to contact the office or website, so there is no need to send a second notice. He was satisfied with the procedure. Mr. Jones made a motion to accept the proposal for conducting the annual meeting. Mr. Howard seconded the motion and it carried unanimously. Mr. Capko confirmed that there have not been any issues with the proxy forms used, and Mr. Behn confirmed the statute permits electronic signatures, so a copy is acceptable. Mr. Capko will provide a sample for the website.

Ms. Eason reported on the re-engineering program. Calibration of the existing model has been completed. Section 7 was added to the model to see if the improvements proposed made a difference. A typical 10-year flooding event does not have roads under water. There is water in the swales, and this protects the roads. She is double-checking to be sure the improvements are sound. She is looking at how to address the backwater which causes flow back into Section 7. All existing conditions have been modeled, facts have been prepared for different scenarios, there has been troubleshooting of proposed improvements, and the Section 18 improvements are also being finished. Ms. Eason stated she is in a good position to hold a workshop in October. Mr. Meyer stated he wants to see 25-year and 100-year events. Ms. Eason does not have those maps available but will have more to present during a workshop. Ms. Eason stated the design criteria has the roads at 10 years and the buildings at 100 years. The original canal system was designed for 4" over 24 hours. The secondary system was based on 2.5" over 24 hours.

On August 3, Ms. Eason submitted an application for Loxahatchee River Preservation Initiative funding for Section 7 improvements and it received a ranking of 7th place. She noted there are long-term grants from Federal Emergency Management Agency and the first round of applications is in September. More grants will be coming out and if she sees something that is a good fit, she will notify the Board.

Mr. Meyer asked to set a date now for the workshop in October. October 22nd was suggested, and the Board and staff agreed. The time and location will be set later.

Mr. Capko presented the attorney's report. He presented a Resolution to adopt the 2020-21 budget and elect the uniform method of collection of non-ad valorem assessments. Mr. Powell made a motion to adopt the Resolution. Mr. Meyer seconded the motion. Mr. Hinkle stated he would not vote to adopt this budget because of the change in the method of assessing road maintenance which allows 11% of PBCE landowners and 18% of Jupiter Farms landowners to not pay for road maintenance. Mr. Powell stated he agreed with Mr. Hinkle, but he would vote to approve the budget. The motion passed with Messrs. Powell, Jones, Meyer and Howard voting in favor, and Mr. Hinkle voting against.

Mr. Capko reported the Governor's Executive Order to allow video conferencing of meetings was extended until October 1st. He will keep the Board and staff updated as to further extensions.

Mr. Behn reported on the litigation regarding the right-of-way in Section 33. The District has limited involvement in the lawsuit. The original easement did not record a legal description and a landowner (Mr. Mellinger) is trying to re-establish an easement. A statement has been presented that the property in question can be accessed by utilizing the canal banks and that is how SIRWCD became involved. Since canal banks are not intended to be roads, Mr. Behn has filed Affirmative Defenses and a Notice of

Appearance. There will be a hearing next week and Mr. Behn may have to do limited discovery, but he will try to limit the District's involvement as much as possible.

Mr. Dillon discussed amending the culvert replacement program for parcels not paying road maintenance. He is working on prices for County parcels that will not be assessed. For materials, equipment and labor, he suggested that a 24" x 30' pipe, standard install, should be \$840. A 24" x 40' culvert should be \$1,020. This does not include the separate \$100 fee if a culvert has a driveway on top of it. Mr. Meyer made a motion to accept Mr. Dillon's recommendation to modify the culvert replacement policy. Mr. Jones seconded the motion and it carried unanimously.

Mr. Dillon discussed the *Bushel Stop's* encroachment on a District easement. *Bushel Stop* has been collecting debris and has had to pull a permit every year from the County. This year the County noticed they are utilizing the District's right-of-way and they are in violation of the 20' buffer in the Building Code. They have had an agreement with the District to use the space but did not address that they are in violation of using the buffer. Mr. Dillon stated that if *Bushel Stop* moves the collection of material 20', the County will accept that. They would also need to put up some type of wall. Mr. Dillon requested Board direction. Mr. Hinkle stated they should move the materials and continue using the space. Mr. Powell stated it is not the District's problem; *Bushel Stop* is the party that has a problem with the Building Department. Mr. Meyer was concerned with liability since the District is the underlying property owner. He suggested they stop using District property. Mr. Hinkle stated the District has a recorded agreement with *Bushel Stop* that contains a hold harmless provision. Mr. Capko stated agreements are good but not 100% foolproof. If the Board wants to amend the agreement, it can do so. There is no requirement for the District to allow them to stay on our property. Mr. Jones stated he was in favor of *Bushel Stop* moving the materials 20' if it solved their problem. Mr. Howard stated they needed to meet the requirements of the County and they could then continue using District property. Mr. Hinkle noted there is a provision in the agreement that states if we need the property, they have to give it up. Mr. Howard made a motion to modify the agreement, so *Bushel Stop* meets the County's Code requirement, or it removes all material from District property. Mr. Meyer seconded the motion and it carried unanimously. Mr. Capko will look into strengthening the hold harmless provision of the agreement and decide if any liability insurance should be required.

Ms. Eason discussed a landowner on Randolph Siding who wants a culvert installed. She advised him of the process and the need for a permit. The landowner has now requested that Ms. Eason's company do this work for him and she wants to be sure there is not a conflict of interest since her company would also be the one approving the work. Mr. Hinkle stated that policies have already been established for culvert placement and the information is provided to landowners prior to any work being done. The Board did not see a problem, and Mr. Capko agreed to review the District's policies and statutes that would affect this issue.

There was no further business to come before the Board at this time, and a motion was made to adjourn. The motion was seconded and carried unanimously.

ADJOURNED.