

**MINUTES
NORTH PALM BEACH HEIGHTS
WATER CONTROL DISTRICT**

February 7, 2008 at 7:00 p.m.

**North County Regional Library
Palm Beach Gardens, FL 33410**

The January 2008 business meeting of the North Palm Beach Heights Water Control District (HWCD), having been duly advertised and posted, was held on February 7, 2008, at the North County Regional Library, 11303 Campus Drive, Palm Beach Gardens, Florida. The meeting was called to order at 7:00 p.m. and after reciting the Pledge of Allegiance, the roll call was taken:

Present

Jeff Iravani
Wally Baldwin
Brett Carpenter
Lynn McCullough

.Report by Mr. Baldwin, HWCD Attorney:

1. Mr. Baldwin sent a letter to the Governor's Office of Elections notifying them of the election of Supervisor Brett Carpenter.
2. Chasewood Property Owners Association is represented by Kravitz Realty Group. Mr. Baldwin received an e-mail on February 1, 2008 advising that they are currently in the process of consulting with an engineering firm, trying to perform a flow test to determine whether the association is liable for discharge fees. They are currently in arrears for 2006 and 2007, totaling over \$12,000. Apparently, they have had some conversations with Chasewood Plaza that they were going to coordinate this thing. Even though the contact person at Kravitz has been responsive, it seems they are still trying to figure out what is going on.

Mr. Baldwin requested Board authority to advise Chasewood Property Owners Association that he needs to report to the Board at the next meeting that they either are contesting the liability under the agreement or that Chasewood acknowledges they are liable and should submit payment.

Mr. McCullough advised that the next Board meeting is March 27, 2008. Mr. McCullough asked the engineer how much time a flow test should take and Mr. Iravani advised that a couple of months are more than sufficient. Mr. McCullough stated that HWCD needs to give them a deadline of when the flow test should be completed and payment should be remitted or HWCD will initiate litigation. Mr. McCullough stated that the Board has been lenient, but it is their statutory requirement to collect the money. Mr. Carpenter recommended an additional requirement that Chasewood Property Owners Association provides information about the flow test process. Chasewood doesn't need their approval but HWCD should have it for their information and understanding. Mr. Baldwin stated that they if they are liable, then that's it, but if their position is that they are not liable, then it will come out in litigation anyway. Mr. Baldwin suggested the deadline should be the date of the next meeting. Mr. Iravani confirmed that two months is a reasonable timeframe. The Board discussed the possible costs of their tests.

Mr. McCullough reiterated that the Board authorizes Mr. Baldwin to communicate back to Kravitz Realty Group that HWCD needs to hear from them by the March 27, 2008 deadline, either that they are not going to pay or that they need to bring a check. Mr. Baldwin advised that the litigation would not be that costly.

Regency Center represents Chasewood Plaza. Mr. Baldwin has had some conversations with Jay Hannock from Regency regarding how to get the issue resolved. He has proposed a settlement offer. Chasewood Plaza currently owes \$2326.80 for 2006 and \$2493 for 2007. He has proposed to pay those drainage fees to HWCD over the course of the year in 2008 to help them offset their costs. They are not disputing that they are liable under the agreement but they are requesting that HWCD submit a bill to them on a quarterly basis for 2008. According to Mr. Baldwin's discussions with Regency, the first quarter January 1 would be currently due. If the Board is agreeable, he will submit a letter of explanation to Mr. Hannock confirming the agreement and a bill for the two years. Mr. Hannock would immediately remit payment for the January 2008 quarter, and then HWCD would bill them each quarter thereafter.

The first issue the Board should address is whether it is agreeable to accepting the past due fees over the course of 2008 in quarterly installments. The second issue is the payment for the year 2009. The agreement provides that the fee is completely due on January 1, so HWCD doesn't have to agree to it.

Mr. McCullough wanted to make sure he understood the proposal. Chasewood Plaza owes HWCD \$4819.80 for 2006 and 2007 already. They want to pay that total past due amount in four quarterly payments in the year 2008. Mr. Baldwin confirmed that. Mr. Hannock is requesting that they soften the blow for the past two years. In 2009, the drainage fees for the year 2008 would become due. Mr. McCullough stated that four quarterly payments would be \$1,204.95.

Mr. Carpenter reiterated that they want to pay their arrears in four quarters and that in 2009, they will be paying 2008 in arrears as four monthly installments.

Mr. McCullough is amenable to letting them pay the \$4819 in four quarterly payments and to let them pay the 2008 charge on a quarterly basis in 2009 at whatever that is determined to be but starting in 2010, they will need to get back to a lump sum payment. Mr. Baldwin stated that if he drafted an agreement, Mr. Hannock would have to submit it to the top of the organization and that would take additional time. He requested Mr. Baldwin just send a letter reiterating the agreement and then they will start submitting the payments. Mr. McCullough requested that all three supervisors are copied with the letters and the billing statements when they are mailed out. Mr. McCullough will advise Mr. Baldwin when the checks come in so HWCD can stay on top of this.

Report by Jeff Iravani, District Engineer:

1. The first quarter canal maintenance started this week. The contractor has been instructed to finish the interior canal by February 17 and the outfall canal and the entire cleaning by February 24.
2. FDOT has paid its fee and provided HWCD with revised plans with revised calculations, reducing the discharge considerably. Mr. Iravani recommends the Board approve the FDOT's drainage permits so he could forward that to the FDOT. The \$3,000 fee has been paid. Mr. Carpenter requested one or two sentences summarizing what has been accomplished for the purposes of the website.
3. The damaged fences have been all repaired. He provided photographs depicting the repairs.

Mr. McCullough asked if Mr. Iravani had a chance to check out the house on the northeast corner of Garrett at the cross-section. Mr. Iravani advised that it was fixed up but he will take a look at it and

report back at the next meeting. Mr. Iravani advised that it is from erosion off of his roof.

New Business:

1. Mr. McCullough made a motion to approve the drainage permit for FDOT and the motion carried.
2. Northern Palm Beach Improvement District is providing 10 feet of additional easement along the outfall canal from Indian Creek to Leslie Street. It will give HCWD better access to that area. At the last meeting, the Board approved and accepted the easement. Mr. Iravani advised that Northern needs HWCD to sign that so they can send it to their Board. Their Board will sign it.

A motion was made to accept the easement agreement with Northern Palm Beach County Improvement District providing HWCD another 10 feet of easement on HWCD's outfall canal from Indian Creek Parkway to Leslie Street and the motion carried.

3. A motion was made to accept the proposal from Regency Centers who represents Chasewood Plaza in which the past due drainage fees for the year 2006 in the amount of \$2,326.80 and the year 2007 in the amount of \$2,493.00 for a total amount of \$4,819.80 will be paid through the year 2008 on a quarterly basis and this represents a quarterly payment amount of \$1,204.95 and the motion also includes that HWCD's acceptance of Regency's proposal to pay the drainage fees for the year 2008, which are due in January, 2009, on a quarterly basis in 2009 and this motion also provides that beginning in the year 2010 that these fees will then become due in a lump sum payment and the motion carried.

Items by Board Members:

1. Mr. Carpenter stated that at one point HWCD was going to talk with the Town of Jupiter and have a tabletop simulation of a preparation for a hurricane and a high rain event and the outcome would be to determine the process of who would open the gate, who notifies who, write the procedures down and that has not been accomplished. Mr. Iravani advised that the procedure is set by SFWMD. Mr. Iravani stated that a request would be made to SFWMD to open the gates and then HWCD would inform the Town. About 4-5 years ago, HCWD met with SFWMD who advised that it would be easier for HWCD to make the request directly to the Town and if the Town doesn't do what HWCD asks them to do, then HWCD goes to SFWMD. The procedure now is that when a hurricane or heavy rainstorm is expected, the

request will be made to the Town of Jupiter to open the gates. SFWMD is the final authority on opening the gate. HWCD has not given up the right to ask SFWMD to open it but HWCD just goes to the Town who then asks SFWMD for permission to open the gate. Usually there is a conference call with SFWMD and all the drainage districts are on it, and SFWMD gives permission to open the gates. Mr. Iravani advised that most of the time he doesn't have to even ask the Town to open the gates, they do it but he sends an e-mail just to make sure that we want it open at certain times and to set the evaluation. The procedure is already established.

Mr. Carpenter was concerned that it is not in writing. He expressed his concern that if the Board members change, he doesn't know that the process would remain the same. He is looking for something that lets the Board members know that this is what the process is. Mr. McCullough started creating some operating procedures for the Board. He asked Mr. Iravani to put in one or two pages the steps that the District Engineer would take to prepare the HWCD for a high-water event, hurricane or otherwise, whatever the District Engineer would do to protect the residents of the Heights. Based on such and such warnings, we do step 1. Then we do step 2. Either e-mail or fax or call Dave Rotar or David Brown. Just something HWCD can document so Mr. McCullough can put in a book and hand to the next Chairman. If HWCD gets a hurricane warning, this is what is supposed to be done so you know. Mr. Carpenter wanted to clarify, if Mr. Iravani could specify and make statements such as the District Engineer calls the Town of Jupiter and whatever the appropriate title is as opposed to a person's name. We could use the current person's name "___, currently in the position of" but the Title is necessary. Mr. McCullough didn't think the Town met his expectation in responding to getting the gate opened. Mr. McCullough expects to get a response from the Town when Mr. Iravani calls or e-mails the Town. The Town needs to provide some feedback as to their actions, i.e., "we've got your message, we are going to act," or "we are going to call SFWMD" or "no, there is a conference call." Mr. McCullough is trying to protect HWCD and get Mr. Iravani the cooperation that he is entitled. Mr. Iravani provided one example of when the Town didn't cooperate immediately and Mr. Iravani advised them that it was not acceptable. Mr. Iravani will put the procedure together and e-mail a draft to the Supervisors. The Supervisors will provide feedback and then it can be presented at the March meeting.

Mr. Carpenter asked what happens if the procedure is followed and the Town of Jupiter were to refuse, stall, delay, thwart opening the gate, whether HWCD has any authority to open the gate. Mr. Iravani advised that it is HWCD's canal and it has never been an issue, but he

made it clear to SFWMD that it is HWCD's jurisdiction and it is HWCD's right to open the gate. If the Town refuses to, HWCD will open it itself.

2. Mr. McCullough advised that the Florida Association of Special District is having their annual meeting in June, on 6/10, 6/11, 6/12 and 6/13. It is going to be held in Sarasota. He requested Mr. Baldwin set those dates aside. He will e-mail Mr. Baldwin more information when he receives it and advised that the one he attended in June 2007 was very informative.
3. The next Board meeting will be Thursday, March 27, 2008 at the library at 7:00 p.m.
4. Mr. McCullough is still dealing with the audit. He is waiting for the quarterly accounting package to come back from Karen Stedman's firm which is the October/November/December 2007 quarter, the first quarter of the fiscal year. Once he receives it, he will take it to Nolan, Holt & Miner and then they can wrap it up. He would like to have the audit completed by early April. Mr. McCullough received a notice from the Auditor General's Office that HWCD was going to be audited on its procedure for selecting an auditor. HWCD did not have one place. In September, HWCD put together a procedure for establishing an audit committee which was done. At this point, HWCD has all of the documentation that the Auditor General's Office would require to satisfy any inquiries that they would have. Mr. McCullough is just waiting to hear from them so he can forward the documentation to them that an audit committee has been established. HWCD has a letter of intent with Nolan, Holt & Miner and HWCD has a contract with them through 2010. HWCD will not be bidding this out anytime soon.

Items by the Public:

None.

A motion was made to adjourn the meeting at 7:37 p.m. and carried unanimously.

Approved:

Lynn J. McCullough, Chairman

Lee Hintemeyer, Supervisor

Brett Carpenter, Supervisor