

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

May 28, 2009 at 7:00 p.m.

**Jupiter Library
Palm Beach Gardens, FL 33458**

The May 2009 business meeting of the North Palm Beach Heights Water Control District ("District"), having been duly advertised and posted, was held on May 28, 2009 at the Jupiter Library, 705 Military Trail, Jupiter, Florida. The meeting was called to order at 7:03 p.m. and after reciting the Pledge of Allegiance, the roll call was taken:

Present

Jeff Iravani
Wally Baldwin
Brett Carpenter
Lee Hintemeyer
Lynn McCullough

Report by Mr. Baldwin, District Attorney:

1. The District Engineer notified Mr. Baldwin's office that there was an illegal pool discharge that was draining into the NC-5 canal from a residence located at 540 Rookery Place in Jupiter. Jupiter Code Enforcement Dep't contacted the residents. Notice was also sent to the residents Anthony and Deborah Cacciapuoti from Mr. Baldwin's office. Alarmed by the letter, Mr. Cacciapuoti contacted Mr. Baldwin's office, said he wasn't aware of what was going on and Mr. Baldwin provided him with photographs of the discharge. Mr. Cacciapuoti informed Mr. Baldwin that he would take steps to ensure that there would be no more improper drainage from the pool.
2. District Counsel attended a Florida Dep't of State Records Compliance Seminar. Also present was the District Chairman and a representative from the District Engineer's office.
3. A meeting was held on May 27, 2009 to discuss settlement of some of the issues in the District's suit against the Chasewoods. The meeting was attended by the District Engineer, Lee Cohen, the attorney representing Chasewood North and Chasewood South, as well as representatives from

Chasewood North and South. The reason the meeting was called was because Lee Cohen's clients had raised some issues regarding Laurel Oaks' discharge and that seemed to be one of the primary impediments to reaching the next phase of negotiations, which is just distribution of the fees. The meeting was held at the District Engineer's office and they received verbal agreement from all the parties after looking at the drainage map that Laurel Oaks was not discharging through the same pipes as the Chasewoods. That issue seems to be resolved as the parties were all in verbal agreement. The next step in the lawsuit at this point would simply be to come up with a distribution of the payments under the drainage plan. Chasewood Plaza has been paying under the District's plan. Mr. Baldwin doesn't foresee any problems as to whether they are liable under the agreement, however, based on an engineer's report that was submitted from the two Chasewoods, their drainage seems to be increased from what it was at the time the agreement was drafted. They developed seven acres or so and their surface discharge has also increased. The two Chasewoods' position is that their fee should go up accordingly. Mr. Baldwin will initiate contact with counsel for Chasewood Plaza and try to coordinate everything between the parties. It seems likely that they will be able to reach some kind of settlement and dismiss the suit.

Mr. Hintemeyer wanted confirmation that they challenged the issue on how much they should pay and now they are saying they are going to pay more than originally before the suit. Mr. Baldwin advised that their Answers to the Complaint denied liability under the agreement but for the purposes of their discussion; he does not believe that is an issue that will be contested through litigation. Mr. Baldwin believes the problem is that Chasewood Plaza has developed substantially, draining more water and that hasn't been taken into consideration in an allocation of the fees. Right now the District is basically receiving a set dollar amount under the agreement based on what its annual canal maintenance budget is for each year; basically 20% of the canal budget is divided between the Chasewoods. He believes last year that was \$75,000 and 20% of that was divided but right now Chasewood Plaza was based on acreage of the properties. He thinks what the District may try to do is an allocation of fees based on the discharge of surface water, what the properties are actually draining. It remains to be seen what Chasewood Plaza's response is going to be about their fees increasing but Mr. Baldwin is hopeful that they can reach some kind of equitable agreement between everybody.

Report by Jeff Iravani, District Engineer:

1. The canal restoration for damages from Tropical Storm Faye that was approved by FEMA is substantially completed.
2. We had a strong storm on March 31, a few inches in a few hours. That caused damage on a couple of the canals. Those damages are partially repaired. The main one was at NC-5 where there was a washout close to the Heights. That repair is complete. The washout from there went down and settled down around the bend around the ripraps so that still needs to be removed. There was a washout on Robinson, which has been fixed. There were additional smaller washouts. They still need to be fixed.
3. There are still a couple of items left on the punch list for Barbara Street culvert replacement by the Town of Jupiter. The items are that the top of the banks are still not restored properly for about 50-60'. The sod that they put in is the wrong sod and the Town has been notified.
4. The "No Trespassing" signs are now in place on Leslie Street. The authorizations have been filled out so now the Town of Jupiter can enforce the no trespassing in all of the District's canal areas.
5. Related to items 1 and 2, the District Engineer was notified that the District's contractor doing the environmental, canals and repairs went out of business sometime in April. The last couple of weeks in April they had problems contacting him. That is one of the reasons that the work is done, some of it from Faye and NC-3, Barbara Street, on either side of Harriet, and also the work on Dimond Street, hasn't been signed off yet. The District Engineer considers that incomplete. Some of the other minor damage that was done in March is not complete either since he was supposed to do that. As a result, he prepared a package with the scope of work, which is shown on page 93 of the report. They picked a contractor, which they thought was experienced and competent to do the work off of the Northern list. The District got bids from the contractors off of Northern's Lists. The scope of work is eight items:

#1 is basically cutting grass, everything above the ground and removing debris on Indiantown Road and removal of small debris and branches, which is all part of the canal maintenance.

#2 is spraying the outfall canal and the lake.

#3, 4, 5, 6 and 7 – He just wanted to get a price to see if the District wants to spray the bottom of the canals to maintain the growths such as cattails, especially in NC-4, which he believes is appropriate to spray the bottom four feet because there is an issue cutting the grass, especially when it is wet.

#8 was the whole thing: cutting the grass, spraying and everything. The reason #8 was added because when the District Engineer received a price from one contractor, and when it was itemized, the entire price went up. The reason is that if the spraying is done, then it is less money to cut grass. AVC Contractor quoted a price for about \$22,000 for everything to cut the grass and spray all the canals, and then when we asked for itemized list, just cutting the grass alone went to \$24,000. The contractors were also provided with canal descriptions. Mr. Iravani and Mr. McCullough took 3 contractors out to show the canal system and another contractor went out with a field rep. A couple of contractors just gave a bid on their own. The list of all of the received bids is provided before page 93 of the report. The prices were:

Bidder 1, New Earth - \$14,500 just for cutting grass;
AVC \$22,800 for cutting grass and spraying;
Grass Roots had a bid of \$17,500 just for cutting grass;
Aquagenics provided a bid \$4,828 for cutting grass and spraying. Mr. Iravani has not checked this guy out nor shown him the canal.

The District Engineer's bid and scope of work is very complete. It has the mileage, the location, sections and a column showing that the price that the contractors provided includes cutting grass and spraying. He asked Aquagenics to send their bid back showing that it is Item 8. They agreed it was. They also told him that they have different equipment for repairing washout and so forth. Mr. Iravani is hoping that this price is good. He thought it was a fluke until he received another bid from Total Maintenance and Building Service for \$3,780 just for cutting grass, and another one for \$2500 just for spraying. The contractors' price range varies significantly, but he is hopeful that Aquagenics works out. They are supposedly a subsidiary of the Angelo Brothers. They do work for Northern. He will check with Northern.

They didn't go to public bidding for a couple of reasons. First, unknown contractors would bid and second they didn't have time. This took a lot of time to show each contractor the canals. This is up for Board review. If the Board would like to give the contract to Aquagenics for \$4828 for cutting the grass and spraying, then Mr. Iravani would like to set up an appointment with their representative, drive him to the canals, make sure everything is okay and let him do it. If any issues arise, they could always get someone else. Mr. Iravani summarized the bids stating that some were just partial spraying, some were just for cutting. Mr. Hintemeyer suggested trying Aquagenics for one time and if their work is unsatisfactory, then they could get someone else. Mr. Iravani stated the contract could be written like that. Mr. Iravani stated that it seems low to him, even though there was another low bid. He reiterated that he did

not take them out to see the canals. If the Board decides to go with Aquagenics, he will show them everything and if anything changes, the Board can choose the next bidder.

6. Mr. Iravani had a call from a resident in Section 1 on March 31 that the roads were flooding and everything was looking bad. Mr. Iravani drove in the rain and took some photos, but it is not part of the report. During the storm, the water in section 1 upstream had the lowest road area, about 18 inches, 2 feet, below the bottom of the head wall so the canals did fairly well, considering it was a heavy storm.

Mr. Carpenter asked Mr. Iravani about the photo on page 61, showing a boat up against a canal with a little washout and wanted to know whether the weight of the boat is causing the washout, and if so, could they make him move the boat to the other side of the house. Mr. Iravani replied yes but stated that the photo was taken mainly because the grass is growing. Under the reimbursement agreement they paid Rooney to do the entire NC-2 from north of Robinson all the way down to Garrett. That whole canal has been redone. He did agree that the resident did damage that area. The boat is in the District's easement. He will take a look at it and see if he can get him to move it. He doesn't know if the resident has room on the other side. Mr. Iravani stated the resident actually improved it, as he drove bars in there, put a fence on the side, and raised it. Mr. Carpenter mentioned financial obligations for any future washouts because of his boat being parked there and Mr. Iravani stated that he would talk to him.

Mr. McCullough asked Mr. Iravani if the washout on the main Leslie Street canal (as shown in photo on page 58) has been repaired. Mr. Iravani stated that it has been repaired by Rooney for \$1,400. Mr. Iravani stated that some sand had been moved around causing a sand bar at the beginning of NC-6 and he was waiting for Rooney to give a price to get the sand out of there. If it is still there, it will have to be dredged.

Mr. McCullough had a Barbara Street resident call him about a washout in the backyard and will try to give Mr. Iravani an address the day after the meeting.

Items by the Board Members:

1. None.

Miscellaneous Items by the Chairman:

1. Mr. McCullough printed the meeting minutes out for the Board members but it will be taken care of next month.
2. The budget meeting is scheduled for June 30, 2009 at the Jupiter Library at 7:00 a.m., on Tuesday, June 30. The Chairman already has the mailing labels from the Property Appraiser's Office. Those will be mailed out on Sunday. As it stands now, the outstanding bond balance is \$3,765,000. These would be paid off in October 2012. The 1992 Bond A has a balance of \$205,000; 1992 Bond B is \$3,345,000; and 1992 Bond C has a balance of \$215,000. This was a result of the bond payment on April 1, 2009 of \$750,000. This will be discussed at the June meeting. Basically the rates are going up about \$9.00.
3. Mr. McCullough has received the Wells Fargo invoice for general liability insurance and approved it.
4. Mr. McCullough asked Mr. Baldwin to get in touch with Shirley in Tallahassee for the status of receiving the annual financial statements. The Chairman received them at the Health Department but not for the District. The other Board members have not received them yet either.
5. The District is going to be supporting the Friends of the Heights Annual Neighborhood Picnic on Saturday, May 30, between 12:00 p.m. and 4:00 p.m. in the North Palm Beach Heights Neighborhood Park.

New Business:

1. Mr. Baldwin has prepared a resolution regarding the payment for employees to maintain and organize the District's records. That was pursuant to the District's meeting with Vincent Edwards, a representative from the Florida Department of State. He will give Mr. Edwards' statement dated May 14, 2009 to Mr. McCullough.
2. In regard to the canal maintenance contract, it may be advisable for Mr. Baldwin to look into any kind of public bidding requirements. There are some statutory requirements in that regard but he believes it is based on dollar amounts of bids so before the District adopts any kind of long-term contract, Mr. Baldwin should look into that and report to the Board. His understanding is that the contractor that they were using is no longer in business so there is a stop gap measure that the Board could temporarily authorize services (for one cut) but before the District adopts any long-term contract, he will look into the requirements.
3. Mr. McCullough made a motion to accept the District Engineer's proposal to the Aquagenics for a one-time service with no contract to establish their proficiency and professionalism and responsiveness to the District's

needs. At the same time, it gives the District Attorney time to research the statute for whatever bidding requirements there may be which would be encumbent upon the Board to act on to procedures to get another firm for canal maintenance. There was a second and the motion carries.

4. Mr. McCullough addressed Resolution No. 1-2009. Mr. McCullough read the Resolution which referred to authorizing the Treasurer to pay a maximum of \$20.00 per hour to each employee utilized by the District for services rendered in maintaining and organizing the District's Records to ensure compliance with the Florida Statute. The resolution will be effective immediately upon its adoption. Mr. McCullough explained that they would be utilizing two women from the District Engineer's office on their personal time to set up their files and records to be in compliance with the Florida Department of State based on the recommendations provided on 4/14 and 4/15/09 by Vincent Edwards who works for the State Library Archives. The District is going to buy some office supplies and will probably need some new shelving and file cabinets. Mr. Edwards did state that the District's Office was sufficient to act as a records storage archive for the records. Mr. McCullough called a motion to accept Resolution 1-2009, it was seconded and the motion carries.
5. The District Chairman is going to be attending the Florida Association of Special Districts Conference next week in St. Augustine.


Items by the Public:

There were no members of the public present.

A motion was made to adjourn the meeting at 7:38 p.m. and it carried unanimously.

Approved:


Lynn J. McCullough, Chairman


Lee Hintemeyer, Supervisor


Brett Carpenter, Supervisor