

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

November 30, 2009 at 7:00 p.m.

**Jupiter Library
Jupiter, Florida FL 33458**

The Annual Landowner's Meeting of the North Palm Beach Heights Water Control District ("District"), having been duly advertised and posted, was held on November 30, 2009 at the Jupiter Library, 705 Military Trail, Jupiter, FL 33458, which was immediately followed by the November 2009 business meeting. The meeting was called to order at 7:05 p.m. and after reciting the Pledge of Allegiance, the roll call was taken:

Present

Jeff Irvani
Brett Carpenter
Wally Baldwin
Lee Hintemeyer
Lynn McCullough

Election of Supervisors

Mr. Carpenter had tallied and certified 27 votes for Mr. Lynn McCullough.

Mr. Baldwin swore Mr. McCullough in as Supervisor.

The annual landowner's meeting was adjourned at 7:07 p.m. and the monthly business meeting was reconvened at 7:07 p.m.

Approval of September Meeting Minutes:

A motion was called to approve the September meeting minutes and the motion carried and the minutes were approved as typed.

Report by Mr. Baldwin, District Attorney:

1. The first item regards the District vs. Regency Center lawsuit. A verbal agreement has been reached with the parties in regards to an allocation of costs under the agreement. Mr. Baldwin has prepared and submitted to defense counsel a proposed drainage agreement, as well as written correspondence with the proposed settlement offer. In an effort to settle the suit, the District has proposed

that the Defendants pay past due drainage fees from the years 2006 through 2010 and to execute a new drainage agreement, which shall be recorded in the public records. In exchange, the District will dismiss the lawsuit and release the Defendants from liability for any drainage fees, which accumulated prior to 2006. After discussion with their clients, defense counsel has submitted proposed revisions to the drainage agreement. There was also an additional settlement proposal from Chasewood North and Chasewood South. Mr. Baldwin reviewed the proposed agreements from defense counsel and he is in the process of preparing a written response in that regard. Settlement discussions are continuing and it appears that a resolution favorable to all the parties may potentially be reached.

2. Regarding the settlement offer from Chasewood North and Chasewood South: the District is seeking drainage fees 2006 – 2010 based on the old percentages in the District's offer. Chasewood North actually paid 2006, but not 2007-2010. The past due drainage fees according to Mr. Baldwin's calculations is \$23,997.00 for Chasewood North. Chasewood South past due fees to bring them current through 2010 is \$29,623.00. After discussion with their clients, Lee Cohen, counsel, came back with revisions to the written drainage agreement. Most of it was not objectionable. There were one or two items. They came back with a counteroffer with regard to the past due drainage fees: Fees from 2006 to present, based on the new percentages, which shift the allocation of costs slightly, they ran the numbers as they totaled them from the new percentages and then offered 50 cents on the dollar. Chasewood North's counteroffer of \$11,121.50. The difference between the offers is \$12,875.50. Chasewood South's counteroffer \$13,249.50, which is a \$16,373.50 differential. In speaking with the Board members, it seems they want to settle this. Mr. Baldwin advised that the most cost-effective way other than seeing this all the way through to Court Order is to reach some kind of proposed settlement with them. Mr. Baldwin proposes that the District presents a counteroffer with regard to the amount of money that they have to pay to come current. The Board members had proposed 75 cents on the dollar, which would only be a couple thousand-dollar differential. Mr. Baldwin recommended that the Board discuss this issue tonight.
3. The second part of the resolution of the lawsuit is the written agreement. There has been a lot of documentation back and forth between the parties in an effort to tweak the agreement. Once that is complete, Mr. Baldwin will submit the proposed written agreement to the Board for its review and approval before it is executed and recorded in the public record.
4. Mr. Baldwin advised that drainage statements for 2010 drainage fees have been issued to Jerry Thomas Elementary, Wal-Mart, Timber Walk, Pep Boys, Bonded Lightning and most parties are current. The Chairman will check whether Pep Boys is past due on any of their fees.

Report by Jeff Iravani, District Engineer:

1. The third quarter cleaning is substantially completed. Just a small portion of the outfall canal around Indian Creek and Jupiter Village needs to be completed.
2. The District had a joint field visit with an Indian Creek homeowner and the Town of Jupiter to look at the issue with the Indian Creek outfall pipe and the sediment around it. Mr. Iravani attended the Indian Creek HOA meeting and they were discussing different avenues to approach that. Mr. Iravani asked them to videotape the pipes and see what the problem is as he was not going to accept someone just going in and putting fill in there. The Town did videotape it a couple of weeks ago and Mr. Iravani received a verbal report that there was a leak in the bottom of one of the pipes. They are going to fix it. Mr. Iravani advised the HOA that they need to be involved in the inspection and repair.
3. The “No Dumping” signs were installed at NC-3 and Marrian Ave.
4. The NC4 repair between Leslie Street and Robinson has been completed.
5. A resident of Egret’s Landing left a pool discharge pipe on and created a washout on Tuesday. Mr. Iravani spoke with the owner who acknowledged it and said he would address it. Mr. Iravani advised him that the District would fix it and will send him the bill. Mr. Iravani prepared a draft letter to the homeowner specifying the violation of the EPA Clean Water Act. It is actually a felony to damage the canal.
6. There was a stolen vehicle that was pushed into the outfall canal at Indian Creek. Town of Jupiter Police Department was contacted who called a tow truck, which removed the vehicle. The canal was damaged during the recovery process. Mr. Iravani spoke with Mr. Baldwin about this and it is not feasible to collect money from insurance company for this.
7. Two residences on Falter Street and NC4 are going to be repaired. The contractor will be starting this week because of the holidays.
8. Mr. Iravani is keeping track of the EPA regulations regarding the nutrient standards. Mr. Iravani discussed the lawsuit against the EPA and the process of DEP setting the standards (state level) and the EPA (Federal) can accept it. EPA is going to set the numbers on 1/14/10 for canals, lake, etc. which includes the District. Once those numbers are set, then the parties can object to it again and the Judge will hear the objections. Assuming this is enforced in the future, the District is not going to be in violation because the only permit that applies to the District is SFWMD and the District is in compliance with that. If anything needs to be done, it will be the Town of Jupiter’s responsibility since the District doesn’t own the residences or the roads. Mr. Iravani has performed a second series of tests. The nitrogen is lower than the first series, which is good. Mr. Iravani has

also taken some samples from other lakes and will forward the results to the Board.

Items by the Board Members:

None.

Miscellaneous Items by the Chairman:

The District received a letter from Applefield Waxman to extend the lease on the District's office for two years. Mr. Baldwin reviewed it. It is a standard boilerplate. Beginning this month, the rent will be \$322.77 and a year from now; it will be \$338.91, which is still reasonable.

Mr. McCullough asked Mr. Iravani about the status of replacing the plates on the culverts. Plates have been ordered.

Mr. McCullough asked Mr. Iravani if he was satisfied with Aquagenics. Mr. Iravani replied that he is satisfied with them. Even though they are doing the work slow, the quality of cutting, etc. is good, as well as their response to Mr. Iravani's request to remove trash, etc. He spoke to them about doing the work quicker, and they are working on it. Mr. McCullough would like to see them put another person or two on this and get the work done in 6 weeks rather than 8. Mr. McCullough suggested that they review their performance and progress at the January meeting. Mr. McCullough acknowledged their low cost but wants to make sure that they are performing the work that they are being paid to do in the timeframe requested.

Mr. McCullough asked Mr. Iravani if he had any luck in finding any new grants or funding sources to do improvements. Mr. Iravani hasn't been able to locate grant money that isn't tied to any storm or disaster. Mr. Iravani advised that if the District comes up with a more impervious section on Leslie Street, then the District is going to go through the permitting process. Mr. Iravani is working on it.

Mr. McCullough asked if Mr. Iravani saw any impact from the construction on I-95. Mr. Iravani advised that he had a meeting with them and asked them to put silt fence around the end wall that comes into the District's system. That was straightened out and maintained so there have not been any other issues.

Mr. McCullough asked Mr. Iravani if there are any new projects that the Board needs to consider. He also acknowledged Mr. Iravani's providing additional programs on District website for lawful use of fertilizers. Mr. McCullough suggested that if any small handouts are available, they can be placed in the mailing for the annual budget. Mr. Iravani and Mr. Carpenter discussed what was going on the website. Mr. Iravani suggested that the District needed to look at a few canals with an endwall situation. Most

of them have a pipe, a few don't. This is something that needs to be looked at but not necessarily do them all in one year but try to complete some that protects the soil from going into the canal and washing out. Besides that, once NC2 was finished which was the last one completed with the NRCS money, which was the last canal that a section wasn't quite up to par. Just about all of the other canals now are in good shape, just a matter of maintaining it, except Leslie Street.

Mr. McCullough asked Mr. Baldwin for a reasonable estimate when the lawsuit will be resolved. Mr. Baldwin is hopeful it will be resolved by April 1. He stated the allocation of costs was the primary sticking point and an agreement has been reached on that. At this point, just a settlement amount regarding past due drainage fees and terms of the agreement. The only thing that is slowing it down is that the Plaza is represented by Jonathan Brody and it is Mr. Baldwin's understanding that Mr. Brody has to go through in-house counsel. They have been pretty quick but there is usually a two to three week delay sometimes on documents coming back. Right now, with the holidays, Mr. Baldwin thinks it is going to be a little slow. Mr. Baldwin should have a proposed agreement for the next regular meeting for the Board's approval. If not, he believes it would be June at the latest.

Mr. McCullough is trying to get an issue resolved with the State of Florida Revenue who collects unemployment insurance premiums. Paychex, who prepares the payroll, tried to do an automatic deposit for quarterly tax purposes and it bounced. The State sent the file back to Paychecks. Through Karen Stedman's dealing with the IRS, they have been able to ascertain is that the State on its computer files has the District's old FEIN number. Back in 1998, the IRS gave the District a new number. For whatever reason, the State has the old one and for years they have been taking the deposit, but now all of a sudden it bounced. Mr. McCullough is in the middle of working with Stedman's firm to come up with an IRS document that states the District's current FEIN number and Mr. McCullough will prepare a letter to the Department of Revenue explaining this and hopefully get them to change their numbers.

The insurer for the District's bonds has changed. Mr. McCullough has been in touch with Paul Greaves from the new company. Nothing outstanding that has come up. It was basically an educational discussion with the new carrier.

Mr. McCullough has a copy of the Excel spreadsheets for the records management system that has been set up for the Board members to review and possibly discuss at the next Board meeting. This has been set up to be in compliance with the State Record Management System, as well as for destruction of documents based on Vincent Edwards' visit.

Mr. McCullough advised that the District mailed out approximately 1500 ballots and letters and proxies. The District received 25 ballots back, which included the ones from the Board members.

New Business:

Mr. McCullough read a resolution to accept the amendment to lease proposed by Applefield Waxman for the District office located at 700 Old Dixie Highway, Unit 203, Lake Park, FL.

Basically, effective November 1, 2009 the lease will run an additional two years ending October 31, 2011;
Beginning November 1, 2009, ending October 31, 2010, the rent will be \$322.77 per month plus applicable taxes;
Beginning November 1, 2010, ending October 31, 2011, the rent will be \$338.91 per month plus applicable taxes;
All other terms and conditions of the lease shall remain in full force and effect.

A motion was made to approve the Resolution as read and the motion carries.

In regards to the resolution of the Chasewood lawsuit, Mr. McCullough recommends that they try to collect 75 cents on the dollar. Mr. McCullough doesn't believe it behooves the District to collect the full 100% because it will cost more in attorney's fees. Also, it is time to wrap this up as the issue has been dragging on for 2 ½ years. Mr. McCullough proposes to authorize the District's Attorney to send a counteroffer back to the litigants for the 75 cents on the dollar and the other Board Supervisors agreed.

Items by the Public:

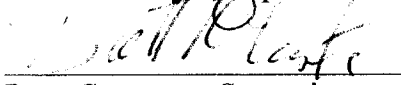
There were no items by the public.

A motion was made to adjourn the meeting at 7:40 p.m. and it carried unanimously.

Approved:


Lynn J. McCullough, Chairman


Lee Hintemeyer, Supervisor


Brett Carpenter, Supervisor