

**MINUTES OF MEETING
SUNSHINE WATER CONTROL DISTRICT**

A Regular Meeting of the Sunshine Water Control District's Board of Supervisors was held on Wednesday, June 13, 2018, at 6:30 p.m., at Sartory Hall, located in Mullins Park, 10150 NW 29 St. (Ben Geiger Drive), Coral Springs, Florida 33065.

Present at the meeting were:

Joe Morera	President
Daniel Prudhomme	Vice President
John Tornincasa	Secretary

Also present were:

Cindy Cerbone	District Manager
Al Malefatto	District Counsel
Orlando Rubio	District Engineer
Jim Maguire	Craig A. Smith & Associates, Inc.
Cory Selchan	Field Superintendent
John McKune	McKune & Associates
Mike Wilson	Broad and Cassel LLP
Tony Grau	Grau & Associates
Judy Grill	Court Reporter

FIRST ORDER OF BUSINESS

Call to Order

Mr. Morera called the meeting to order at 6:35 p.m.

SECOND ORDER OF BUSINESS

Roll Call

Ms. Cerbone called the roll. All Supervisors were present, in person.

THIRD ORDER OF BUSINESS

Pledge of Allegiance

All present recited the Pledge of Allegiance.

FOURTH ORDER OF BUSINESS

Recess Regular Meeting

The Regular Meeting recessed at 6:36 p.m.

FIFTH ORDER OF BUSINESS

Commencement of Attorney-Client Session

The Attorney-Client Session commenced at 6:37 p.m.

SIXTH ORDER OF BUSINESS

Termination of Attorney-Client Session

The Attorney-Client Session terminated at 7:37 p.m.

SEVENTH ORDER OF BUSINESS

Reconvene Regular Meeting

The Regular Meeting reconvened at 7:45 p.m.

EIGHTH ORDER OF BUSINESS

**Public Comments [3-Minute Time Limit]
(Comments should be made from the microphone to ensure recording. Please state your name prior to speaking.)**

There being no public comments, the next item followed.

NINTH ORDER OF BUSINESS

Presentation of Audited Financial Report for Fiscal Year Ended September 30, 2017, Prepared by Grau & Associates.

Mr. Grau presented the Audited Financial Report for Fiscal Year Ended September 30, 2017 and described the information that could be found on each page. This was a clean, unqualified audit; there were no findings or instances of noncompliance. He highlighted the following:

- The “Change in net position” was \$1,377,235; the District’s equity position increased significantly over the last two fiscal years.
- Page 9: Total fund balances for the General Fund were approximately \$8 million, with approximately \$4 million assigned to specific items and approximately \$3.9 million unassigned.

Mr. Morera stated that the District, once again, had a clean audit and remained fiscally responsible and continued to operate under proper auditing guidelines.

TENTH ORDER OF BUSINESS

Consideration of Resolution 2018-05, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2018

Ms. Cerbone presented Resolution 2018-05.

On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, Resolution 2018-05, Accepting the Audited Financial Report for the Fiscal Year Ended September 30, 2018, was adopted.

ELEVENTH ORDER OF BUSINESS

Continued Discussion: Fiscal Year 2019 Proposed Budget

Ms. Cerbone recalled that the proposed Fiscal Year 2019 budget was presented at the last meeting, Mr. McGuire discussed Capital Improvement Program (CIP) projects and gave suggestions and the suggested CIP projects were discussed, in terms of what the Board was comfortable in committing to, from a budgetary standpoint. She highlighted the changes that resulted from the last meeting and were reflected in this version of the proposed Fiscal Year 2019 budget. To keep assessments fairly level and not exceed a 3% increase, \$1,465,000 of Fund Balance must be used to offset a portion of the increase. As currently proposed, assessments would increase from \$235.60 per unit, in Fiscal Year 2018, to \$242.42 in Fiscal Year 2019, which equated to a 2.89% increase; the prior year increase was 2.94%.

Ms. Cerbone stated that she and Mr. Malefatto spoke about the legal fees. In the proposed Fiscal Year 2019 budget, “Legal”, for District Counsel’s work, was budgeted at \$85,000 and “Legal: litigation”, for the litigation-related work performed by Broad & Cassel (B&C), was budgeted at \$100,000.

Mr. Malefatto stated that his and B&C’s legal fees for Fiscal Year 2018 were on pace to exceed the adopted budget amounts. He stated that Mr. Wilson projected B&C’s Fiscal Year 2019 legal fees at \$130,000, assuming the case does not settle and goes to trial; therefore, it might be prudent to budget \$150,000 for “Legal: litigation”. He recommended increasing “Legal” to \$105,000.

Ms. Cerbone noted that the District typically comes in under budget; therefore, the proposed budget could remain “as is” or it could be amended. If the increase is added to the

proposed budget, use of Fund Balance must increase from \$1,465,000 to \$1,531,000 to offset the increases and keep the assessment increase no more than 3%.

The following changes were made:

“Legal”: Increase from \$85,000 to \$105,000

“Legal: litigation”: Increase from \$100,000 to \$150,000

Use of Fund Balance: Increase from \$1,465,000 to \$1,531,000

Ms. Cerbone stated that these changes would increase the proposed assessment amount from \$242.42 to \$242.67.

On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, amending the Fiscal Year 2019 Proposed Budget, as discussed, was approved.

TWELFTH ORDER OF BUSINESS

Update: West Outfall Canal (WOFC) Project

Mr. Rubio reported the following:

- Encroachment Removal Project: Nearly completed.
- Construction for Portion of Phase 1: Four bidders attended the pre-bid meeting yesterday and the hope was to receive at least three bids. Questions were asked and answered at the pre-bid meeting. An addendum would be sent soon. Bids are due August 3 and the last day for questions is July 27. More companies were contacted but did not attend the pre-bid meeting.

Mr. Morera asked if all the companies were familiar and reputable. Mr. Rubio previously worked with one company; he researched the other three and their focus seemed to be lake bank restoration, meaning they may work with another company on the work under the bridge. Mr. Morera asked if all bids could be rejected and go through the bid process again, if the Board was not satisfied with the bids. Mr. Rubio stated it would be possible to rebid, reduce the project to a more manageable scope or negotiate the price. If rebid, it could delay the project to next season, as the time frame is already tight. Mr. Morera asked if Mr. Rubio hoped to have more companies and preferred vendors bid the project. Mr. Rubio replied affirmatively and stated that one preferred vendor attended the pre-bid meeting; the contract should be awarded to the most responsive and responsible bidder, not just the lowest bidder.

Mr. McGuire reported the following:

- Need Trees Trimmed Inds., (NTTI): Work went well. Sod was installed and resident feedback was positive.
- Area on northeast side beyond Riverside at the bridge: Gate, fence and bushes that blocked the view to the canal were removed. Staff suggested installation of a temporary wooden fence, as work would not commence there for two years and the area is currently wide open.

Mr. Selchan stated that residents would replant, etc., but, as it would take time to grow, the residents asked the District to install something to obscure the view, until the plants grow. Once the CDD completes its work, the temporary fence would be removed.

On MOTION by Mr. Prudhomme and seconded by Mr. Tornincasa, with all in favor, installation of temporary fencing on northeast side of Riverside Drive, in a not-to-exceed amount of \$1,800, was approved.

Mr. Maguire stated that the WOFC Project has gone very smoothly.

Mr. Morera stated that NTTI did a great job and thanked them for their efforts. Mr. McGuire and Mr. Selchan stated that NTTI exceeded Staff's expectations, communicated thoroughly with residents, addressed resident concerns, etc.

THIRTEENTH ORDER OF BUSINESS

Continued Discussion: Hurricane Irma Debris Removal

Mr. Selchan stated that work was almost complete. Mr. Lee Wordsman, of Rostan Solutions (Rostan), the District's debris monitor, reported that about one week remains to pick up what was cut and remove a few large stumps. The total, as of today, is \$2,782,625, which would be under the estimated amount. Mr. Morera asked if the Coral Springs Improvement District (CSID) site could still be used. Mr. Selchan stated it was allowed through May 30, as CSID did not receive the requested permit extension, which is why debris was now being hauled to a site in Deerfield Beach. The Contractor has served the District well, worked well with residents and managed most issues that arose on their own.

Regarding potential National Resource Conservation Service (NRCS) funds, Mr. Selchan stated that, even if work ended today, it would be a month or more before NRCS funds would be available to complete the last week of work; therefore, in his opinion, it did not make sense to

switch to NRCS, as NRCS will not reimburse for any work performed prior to signing a contract with them. Mr. Selchan stated that Mr. Wordsman recommended continuing with the Federal Emergency Management Agency (FEMA) claim and declining NRCS’s offer. Mr. Morera asked if declining NRCS funding could create conflict with them in the future. Mr. Selchan stated that Mr. Wordsman believes the District is in a strong position to appeal, if necessary, as it was necessary to complete the work to prevent issues during the upcoming hurricane season. If the District waited for NRCS funds, work would not be commencing until July, which would be after the start of hurricane season. The District has strong justification for commencing the work, declining NRCS’s offer and continuing with FEMA.

Discussion ensued regarding news coverage related to hurricane debris disposal.

Mr. Malefatto stated that he also spoke with Mr. Wordsman, who confirmed that declining the NRCS offer should not pose any problems with the District’s FEMA claim. NRCS came in very late in this process and the District could not wait. Also, NRCS funding would only apply to debris removed from waterways and work performed after signing a contract with NRCS; therefore, he agreed with the recommendation to decline the offer from NRCS.

On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, authorizing the District Manager and Rostan to draft correspondence to the National Resource Conservation Service declining funding, including an appropriate explanation of why the funding was being declined, was approved.

FOURTEENTH ORDER OF BUSINESS

Approval of Unaudited Financial Statements as of April 30, 2018

Ms. Cerbone presented the Unaudited Financial Statements as of April 30, 2018. Assessment revenue collections were at 95%. Mr. Morera asked about the “Dues/subscriptions” line item. Ms. Cerbone stated that it was for the Florida Association of Special Districts (FASD) membership and possibly another item.

On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, the Unaudited Financial Statements as of April 30, 2018, were approved.

FIFTEENTH ORDER OF BUSINESS

Approval of May 10, 2018 Regular Meeting Minutes

Ms. Cerbone presented the May 10, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. Changes provided by Mr. Malefatto would be made.

On MOTION by Mr. Prudhomme and seconded by Mr. Tornincasa, with all in favor, the May 10, 2018 Regular Meeting Minutes, as amended and to include the edits previously submitted to Management by Mr. Malefatto, were approved.

SIXTEENTH ORDER OF BUSINESS

Supervisors' Communications

Mr. Morera stated that projects were moving along; he hoped the pattern would continue and there would be a positive result in the IBI Group (IBI) litigation. He wished everyone a Happy Father's Day and Fourth of July and thanked everyone for their continued support of the District and the time taken to enable the District to do the right thing for residents.

SEVENTEENTH ORDER OF BUSINESS

Staff Reports

A. District Counsel: *Lewis, Longman & Walker, P.A*

Mr. Malefatto reported the following:

➤ Claim by Cineus/Cambroune Update: The District's Special Counsel, Mr. Dominick Tamarazzo, of The Kelly Kronenberg Law Firm, advised that two Motions for Summary Judgment were filed. Sample Road Investments (SRI) was sued, along with the landlord of the home. The Court granted a Summary Judgment letting the landlord out of the claim, as the claim against the landlord was that there was an "attractive nuisance", meaning the canal; however, the law states that, if the party does not own the "attractive nuisance", they cannot be responsible for it, which was why the landlord was let out of the lawsuit. SRI objected because they wanted the landlord to remain in the case but the Court ruled further that it could have been an "attractive nuisance" for SRI/Coral Lago, because it owned the canal. SRI remains in the case. Mr. Tamarazzo thinks that they might amend again. SRI's affirmative defense alleges that they did not own the property; however, as Mr. Selchan testified to in his deposition, the property was transferred. During the deposition, Mr. Selchan also discussed the Swap Agreement that the

District entered into with SRI. Mr. Tamarazzo was speculating that SRI might request the deposition of another person, as it relates to the recording of the documents. The deed to transfer the property to SRI was executed by Mr. Morera on July 1, 2014 but Coral Lago held the deed and did not record it until October 1, 2015 and, ironically, the unfortunate accident occurred on September 29, 2015. District Counsel held the documents in escrow for awhile but turned them over to SRI's Counsel well before the date of the accident. The District's stance is that the date the deed was executed is when the property title transferred, even though it was not yet recorded; recording is just to show the public who owns the property. Also, SRI's Counsel had possession of the document and could have recorded it prior to the accident but did not. The District could also raise other defenses, including sovereign immunity, if necessary. Mr. Selchan and Mr. Tamarazzo reviewed the transcript of his deposition and both were satisfied with the substance of it. In response to a comment by Mr. Morera, Mr. Malefatto stated that the District is not currently a party to the lawsuit.

i. Consideration of Quit Claim Deed (*Former SWCD Canal "L"*)

• Consideration of Non-Exclusive Grant of Easement

Mr. Malefatto distributed photographs and stated that Coral Springs Christian School, at Coral Springs Drive and Riverside Drive, is being sold to Pines Boulevard School Development Company (PBSDC). In 2005, the District issued a drainage permit, which is not shown on the aerial photograph, to install a drainage system and pave. PBSDC's original request was for an amendment to the existing permit but the permit expired in 2010. Further research revealed that the District owns the property shown in red on the photograph. Mr. Malefatto advised PBSDC that they must take ownership of that property and proposed that the District give PBSDC a Quit Claim Deed, so that PBSDC takes title to it. In return, the District would receive an Easement for access and drainage purposes but with PBSDC retaining responsibility for maintenance of the system and indemnifying the District, which is an advantage over the current situation. Discussion ensued regarding whether the District could sell the property to PBSDC. Mr. Morera favored whatever approach would be most favorable to the District. Mr. Malefatto hoped to present this for consideration at the next meeting.

▪ Supervisors' Communications

Mr. Morera had additional comments.

Mr. Morera stated that, following a rainstorm, both canals near 123rd Avenue overflowed onto the road and the risers were completely submerged. He asked how the recommended work in that area would remedy water flow. Mr. Rubio stated that the remedy would be to eliminate the risers and place a box to keep the water quality treatment levels the way they were permitted and then install backflow preventers or valves, on the west side, which open when there is pressure to eliminate overtopping or release; a box inlet and grate would provide more flow area through the drains, along with flow through the valves at the bottom to allow more water to flow west, under Sportsplex Drive and the concrete dam. Regarding high water in an area near the Dog Park, Mr. Rubio stated that Sportsplex Drive might also be considered so that, if doubling the pipes at 123rd Avenue causes Sportsplex Drive to flood more frequently, the design plans for installation of a culvert to equalize the area and allow water to flow west better would already be prepared.

Mr. Morera asked if the District sprays along the canal along the back of the school. Mr. Selchan stated that area is owned by County. Mr. Morera asked if the vegetation impedes water flow. Mr. Selchan stated that the County planted the vegetation many years ago and was told by the County not to spray the area; however, the vegetation does not slow water flow. He felt that the improvements suggested by Mr. Rubio, with a one-way valve flow, would meet the permit criteria and would allow water to flow west.

Mr. Morera stated that he observed District crewmembers using hooked rake to remove debris from the grate area in front of Pump Station #1 that stops debris from entering the pumps and affecting the motors. As it could be dangerous if someone fell in, he suggested implementing a harness system for crewmembers. Mr. Selchan stated that was discussed many times but no one has fallen in. Since he became the Supervisor, no one has been allowed to perform that work alone and, if someone fell in, the pumps could be turned off within a minute. Discussion ensued regarding rakes and other options.

B. District Engineer: *Craig A. Smith & Associates*

i. Monthly Engineer's Report

Mr. Rubio reported the following:

- Canal 20-1A Restoration Project: The Broward County Environmental Resource License was received. Two price proposals were obtained and one or two more would be sought. The proposals would be presented soon.

➤ Permits: Met with the City and other water control districts on May 29 regarding improving coordination of permits, the permit process, improving coordination in electronic form between the Districts and the City and various other City Departments. Since then, those departments have been copied on correspondence with applicants requesting a Letter of No Objection or a formal permit approval. The City wants to be sure that they are approving the same plans as the District.

C. District Engineering Consultant: *John McKune*

There being no report, the next item followed.

D. District Field Supervisor: *Cory Selchan*

Mr. Selchan stated that a little over 23” of rain was received since the last meeting. Flooding was typical to other storm situations but, overall, the District fared well, given the amount of rain. Canals were pumped before the rain events to lower water levels. The waterway cleanup is nearly completed; complaints were minimal.

Regarding the hurricane recovery efforts, Mr. Morera felt that the District should strive to not be the last to start work such as this, compared to other Districts. Ms. Cerbone pointed out that the North Springs Improvement District (NSID) funded its cleanup and proceeded immediately. This District was on par with CSID, despite having a lot more work to complete, and is only about six weeks behind CSID in completing the work. It is important to understand that NSID took a different funding approach and funded its own cleanup, while this District chose to wait for funding opportunities. The District’s issues not being considered immediate, health, safety and welfare issues might have influenced its placement in the hierarchy, along with the timing of the situations in Houston and Puerto Rico; resources were scarce and entities had to address areas with higher health, safety and welfare concerns. Mr. Selchan agreed that the vendors were low on resources. Mr. Morera voiced his opinion that it would have been beneficial for the vendor to have started with this District, instead of CSID, and then worked in CSID. Mr. Selchan felt that CSID was in a better position because the debris site was in CSID. Mr. Morera reiterated his opinion that, in the future, Staff should coordinate resources better so that the District is not the last one to commence work, after everyone else.

Discussion ensued regarding staffing and equipment.

Mr. Selchan stated that he was very pleased with his crew and their hard work is greatly appreciated.

E. District Manager: *Wrathell, Hunt & Associates, LLC*

i. Resident Comments

- a. Don and Linda Goedke**
- b. Anita D'Amico**

Ms. Cerbone presented resident letters thanking the District and praising the exemplary work of Mr. Selchan and his team. Mr. Selchan stated that he often receives these types of communications and shares them with his team.

ii. NEXT MEETING DATE: July 11, 2018 at 6:30 P.M.

The next meeting will be held on Wednesday, July 11, 2018 at 6:30 p.m., at this location.

EIGHTEENTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned at 9:10 p.m.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

Cindy Carbone

Secretary/Assistant Secretary

Joe E. Moren

President/Vice President