

**MINUTES OF MEETING  
SUNSHINE WATER CONTROL DISTRICT**

The Board of Supervisors of the Sunshine Water Control District held a Regular Meeting on Wednesday, January 9, 2019, 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
Christine Cardelle	Wrathell, Hunt and Associates, LLC
Al Malefatto	District Counsel
Orlando Rubio	District Engineer
Jim Maguire	Craig A. Smith & Associates, Inc.
Cory Selchan	Field Superintendent
John McKune	McKune & Associates
Mark Sirchio	Rio-Bak Corporation

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Morera called the meeting to order at 6:30 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**

**Update: West Outfall Canal (WOFC) Project**

Mr. Rubio reported the following:

- A second pay request was approved.

- The project is progressing fairly well; the first phase is 89% completed and materials were hauled away.
- The first phase should be completed by the end of February or early March.
- An updated schedule will be circulated to the District Manager and the Board.

Mr. Maguire stated that there is good progress and the canal is impressive-looking; it is wide and deep. In response to Mr. Morera's question regarding the dewatering and depth of the water remaining in the canal, Mr. Rubio stated that the final as-builts will show that the elevation will be close to the designed elevations of plus or minus  $\frac{1}{10}'$ . The desired elevations are minus  $1\frac{1}{2}$  for Phase 1, with a 2:1 slope up to elevation  $5\frac{1}{2}$ , and 4:1 for elevation  $5\frac{1}{2}$ , with a 4:1 slope to match the existing elevation. Mr. Maguire stated that Staff conducts daily inspections of the site, lasting three to four hours, wherein they take measurements and ensure that the excavation is exact. A GPS machine is used to measure the outlets; the canal measures 43' wide at  $1\frac{1}{2}$ . Discussion ensued regarding the water levels and the method used to measure the water in the canal. In response to Mr. Morera's question regarding how things look from an operations standpoint, Mr. Sirchio, of Rio-Bak Corporation (Rio-Bak), stated that the only issue is that the trucking company is busy and, every day, there are not enough trucks available so reinforcements must be brought in from other companies. Discussion ensued regarding the best route to transport materials to the landfill, the guardrails and utilizing County or City roadways.

Ms. Cerbone stated that, before Mr. Sirchio exits the meeting, the Revocable License Agreement with Rio-Bak must be considered. Mr. Malefatto stated that the Revocable License Agreement is essentially an access agreement to cross Cypress Park to access the canal from there because part of the West Outfall goes by the Park. The Agreement is between the City, the District and Rio-Bak and is very similar to a previous agreement that the District asked the City to sign when the City Hall project was underway, which was allowed access across a District right-of-way (ROW). The changes that the City agreed to included:

- Page 2, Section 4b: While the District is a licensee along with Rio-Bak, Rio-Bak is the responsible party, since they are doing the work.
- Page 3, Section 9: Certain limitations are inserted on the indemnification, pursuant to Section 768.28 Florida Statutes, which limits the amount of liability any local government or Special District would have under Florida Law.

➤ Page 3, Section 10: The District does not have coverage as it would have cost an additional \$10,000 to \$15,000 to provide. Since Rio-Bak has insurance, it is not necessary to have double coverage so it was changed to state that only Rio-Bak will provide insurance.

Mr. Malefatto stated that there are two signed agreements from Rio-Bak and, assuming the Board approves the Agreement, the Board Chair should execute it. Discussion ensued regarding the timing of the Agreement, homeowners' reactions and complaints.

**On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, the Revocable License Agreement between the City of Coral Springs, the District and Rio-Bak Corporation, was approved.**

**Mr. Sirchio left the Meeting.**

Mr. Maguire distributed a handout and presented the following regarding Phase 1C:

- Phase 1B extends approximately 300' past the Coral Springs Bridge.
- Phase 1C, as proposed, would cover the 1,200' from the ending point to the Cypress Park Bridge.
- That area has a considerable number of encroachments, which are eyesores and could wind up in the water in the event of a storm.
- Approval to remove all encroachments, down to the Cypress Park Bridge, was requested and, in lieu of going out to bid, a change order from Rio-Bak was requested.
- Earlier today, Rio-Bak forwarded a proposal for presentation.

In response to Mr. Morera's question, Mr. Rubio stated that the first draft of the change order was much higher than the current proposal. Ms. Cerbone stated that there is no comparison, as this was not in the original bid package. Mr. Rubio and Mr. Maguire are referring to Phase 1C. The original WOFC project consists of Phase 1, currently underway, Phase 2 by the pump station and Phases 3 and 4 in between. The 1,200' is technically part of Phase 4 but Mr. Maguire is saying that, because of the way the project is progressing, the logistics and the cost, it behooves exploring performing the work in that area now. The encroachments in the 1,200' are an eyesore and Staff conferred with Rio-Bak, who then forwarded a change order of \$44,000 and an additional \$31,000 for tree mitigation, which is an estimate. She recapped that the original WOFC project consists of four phases and the 1,200' that Staff would like to add to Phase 1C, was originally in Phase 4 of the WOFC project that was

divided into four phases. Mr. Maguire stated that it is important to eliminate the encroachments; the tree mitigation fee from the City is approximately \$31,000, along with \$44,000 for Rio-Bak, who will engage NTTI as a sub-contractor to perform the work. Mr. Morera questioned if it is more efficient to contract with Rio-Bak, rather than engaging NTTI directly, as the District has done in the past. Mr. Rubio explained that NTTI cannot be engaged directly because their contracts are already closed so the District would have to go out to bid, which would cost additional funds. Mr. Maguire asked the Board to approval the Rio-Bak Corporation change order in a not-to-exceed amount of \$80,000, including the tree mitigation fee and fencing and highlighted the following advantages:

- The hydraulic impact will be very impactful and helpful to Phase 1.
- There is ease in doing it now, as work is currently underway in that area; whether 300' or 1,500' is completed in that area.
- An access agreement with the City, which expires on May 31<sup>st</sup>, is already in place.
- There would be a cost savings; Rio-Bak bid \$2.3 million, while others bid \$5 million.
- If not approved now, when the project is revisited in three or four years, the pricing could increase to \$5 million, instead of the \$2.3 million being proposed.

In response to Mr. Morera's question regarding the projected cost, Mr. Maguire stated, it will cost roughly \$800,000 to complete the section but it does not complete Phase 4. It is an extension onto Phase 1 and a portion or maybe half of Phase 4. Mr. Maguire suggested moving Phase 4 into Phase 1 because the project is currently underway in the Park. As to how much of Phase 4 would be left, if 1,200' of encroachments are removed, Mr. Maguire stated about 1,000', or a little less than half. This would result in a cost savings, at the end of the project, whenever the work reaches Phase 4; the project is projected to be completed in 2021. As to the exact scope of work for the \$2.3 million, Mr. Rubio stated that it would cover 2,600' of canal work and \$740,000 for construction of this phase, plus the engineering fees for supervision, totaling approximately \$800,000. Going out to bid would be even more costly. Discussion ensued regarding the scope and cost of the project, engineering fees and the four phases. Mr. Maguire asked for approval for the encroachment removal, in a not-to-exceed amount of \$80,000 and, if approved, he will send information packages tomorrow. Mr. Tornincasa asked if Craig A. Smith (CAS) would request additional funds for the project at the next meeting. Ms. Cerbone replied \$800,000, plus additional fees for CAS, so it will be more

than \$800,000. As to the reason for additional fees, Ms. Cerbone explained that the previously approved agreement with CAS is for Phase 1 but not including the 1,200'. The Board approved initial expenses for CAS to investigate and present plans for the additional 1,200'. If, after CAS's presentation for additional funds, the Board grants approval and re-issues a change order to Rio-Bak, at the same time, CAS will have additional capital outlay related to engineering, as well, and the District must pay CAS more to monitor the construction project; the breakdown is \$740,000 for Rio-Bak and \$60,000 for CAS, which totals \$800,000.

Discussion ensued regarding encroachment removal, Phase 1C, Phase 2 construction, logistics and issues with property owners. Ms. Cerbone stated that she asked CAS not to make a formal presentation today because Management has some funding concerns and needs time to prepare a worst-case scenario so the Board has a clear picture of the District's position. Although she fully supports Phase 1C, the Board needs to consider what could happen if it proceeds with the project and no Federal Emergency Management Agency (FEMA) funds are received and if there is a hurricane or significant storm event in Fiscal Year 2019. It is important to be conservative and not rush into the construction. Discussion ensued regarding available funds as a result of the bond refunding, potential FEMA funds and other sources of funding.

Mr. Malefatto asked for clarification of the funds being asked for at tonight's meeting. Mr. Maguire stated \$44,000 for the clearing, \$31,000 for the permit from the City and he will add more to that and more for the fence; \$80,000 was being requested. Mr. Morera asked if the mitigation fee is in line with the calculations that were used in the past. Mr. Maguire replied affirmatively. Mr. Morera asked if there is a record of how much the District has expended in mitigation fees over the years. Mr. Rubio stated that the District has paid \$250,000. Mr. Maguire specified that the Phase 1C project will not include stump removal.

**On MOTION by Mr. Prudhomme and seconded by Mr. Tornincasa, with all in favor, the WOFC Phase 1C tree mitigation fee with the City of Coral Springs and the encroachment removal Change Order with Rio-Bak Corporation, in a not-to-exceed amount of \$80,000, were approved.**

**FIFTH ORDER OF BUSINESS**

**Consideration of Obstruction Removal Agreement/Fence Encroachment Determination/Permit Application Request (re: Zelke)**

Ms. Cerbone stated that Mr. Daryl Zelke, a property owner, recently requested approval to install a fence on his property and was informed that there is a maintenance easement, belonging to the District, inside the property and there is a palm tree that is in the District’s ROW. Mr. Zelke was advised that, before a fence can be installed, he must first remove the palm tree himself or sign an obstruction removal agreement for the District to remove it for him, along with signing a fence encroachment agreement, absolving the District of any damages, in event it must access the maintenance easement on his property. The following should be considered:

- The Obstruction Removal Agreement.
- Selecting one of three vendors for removal of the palm tree, in a not-to-exceed amount of \$400.
- Approval of the Fence Encroachment Agreement and allowing Staff to coordinate with the District Engineer to have the permit updated to reflect the nature of the permit, as it is not related to a ROW but, rather, to a maintenance easement. The permit will then be issued to the applicant who has already paid the \$350 permit application fee.

Mr. Selchan prepared a cover letter recommending approval of the two agreements. In response to a Board Member’s question, Ms. Cerbone stated that the circumstance was unique because the property has a maintenance easement inside private property lines and an obstruction on the ROW. Discussion ensued regarding access easements, ROWs, the location of the property, the vendors and recording the documents.

**On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, the Castle Tree Art invoice for tree removal from the ROW, in a not-to-exceed amount of \$400, was approved.**

**On MOTION by Mr. Prudhomme and seconded by Mr. Tornincasa, with all in favor, the Obstruction Removal Agreement, was approved.**

**On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, the Fence Encroachment Agreement and Permit, were approved.**

Ms. Cerbone presented the Unaudited Financial Statements as of November 30, 2018.

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

**SEVENTH ORDER OF BUSINESS**

**Approval of Minutes**

- A. November 14, 2018 Regular Meeting**
- B. December 5, 2018 Regular Meeting**

Ms. Cerbone presented the November 14, 2018 Regular Meeting and December 5, 2018 Regular Meeting Minutes and asked for any additions, deletions or corrections. Mr. Malefatto, previously submitted edits to Management and his final edits received today would also be made.

**On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, the November 14, 2018 Regular Meeting Minutes, as amended, were approved.**  
**On MOTION by Mr. Tornincasa and seconded by Mr. Prudhomme, with all in favor, the December 5, 2018 Regular Meeting Minutes, as amended, were approved.**

**EIGHTH ORDER OF BUSINESS**

**Supervisors' Communications**

Mr. Prudhomme hoped everyone had happy holidays and welcomed Ms. Cardelle.

Mr. Tornincasa stated that everything is good.

Mr. Morera welcomed everyone back and expressed his hopes that 2019 would be a manageable year, with very few storms. He wished everyone continued good health.

**NINTH ORDER OF BUSINESS**

**Staff Reports**

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

Mr. Malefatto reported the following regarding the IBI Litigation:

- Litigation is progressing. A third amendment to the complaint was filed, adding Mr. Jim Fox, an IBI Mechanical Engineer from Michigan, who executed the design documents but he was not the Engineer who produced the design.
- The Engineer who produced the design was not a Florida licensed Engineer but Mr. Fox is and, since Mr. Fox signed off on the design, it makes him potentially liable for the design issues.
- A judge accepted the amended complaint and Mr. Fox is expected to be served in Michigan soon.
- The amended complaint pushes the trial back further; if there is no settlement in, a trial will be set for July or August.
- Each new development makes the litigation more costly and a budget amendment may be necessary; 50% of the Fiscal Year 2019 litigation budget has been incurred.
- The deposition of Mr. Jones is scheduled for next week.
- It was hoped that IBI would have tried to settle at a reasonable amount but the figure proposed at mediation was far lower than anything the District could accept.

In response to a question of how low IBI's amount was, Mr. Malefatto stated that IBI's mediation figure was off by millions.

Mr. Malefatto reported the following regarding other litigation:

- The case involving the drowning death of a toddler was settled by the parties involved and there is no liability to the District; the terms of the settlement are confidential.

- **Proposed Legislation by the Broward County Legislative Delegation**

Mr. Malefatto stated that the proposed bill encompasses the following:

- The method of voting would change to one elector, one vote, as opposed to being based on property ownership.
- The terms would be staggered, beginning at the November 2020 General Election.
- The legislation will be considered by the Broward County Legislative Delegation next week at the Sunrise Civic Center from 9:30 a.m. to 4:00 p.m.
- Mr. Malefatto's firm was authorized by the Coral Springs Improvement District (CSID) to oppose it, as it did the previous year.

As to the fee to be on the General Election ballot, Mr. Malefatto stated that the fee is 3% of the annual salary of the office, meaning \$18. The election assessment of 1%, meaning \$5,

is paid to the Supervisor of Elections and is how the elections are funded. A forthcoming bill will be suggested for each of the four Special Districts within Coral Springs. In response to Mr. Morera’s question regarding cost of living adjustments for Board Member compensation, Mr. Malefatto stated that he would request a cost of living increase at the meeting.

Regarding the IBI litigation, Mr. Maguire asked if the addition of Mr. Fox to the lawsuit adds another possible \$2.5 million. Mr. Morera stated that it is unlimited. Mr. Malefatto stated that the likelihood was that individuals are also covered by the same insurance policy so it spreads the liability around between the District and the three individual Engineers. The potential liability amount would be split between IBI, which is capped at \$5 million, and the remainder would be assessed against the individuals, through their insurers. The District is seeking \$12.5 million. Discussion ensued regarding the mediation, the trial and depositions.

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

- **Monthly Engineer’s Report**

There being nothing additional to report, the next item followed.

**C. District Engineering Consultant: *John McKune***

There being no report, the next item followed.

**D. District Field Supervisor: *Cory Selchan***

Mr. Selchan stated there was only 1” of rainfall since the previous meeting. The canals were falling rapidly and were at 1’ low on the west side and 3’ low on the east side. The bypass was open to try to steady the water levels. The District recently entered a drought.

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

Ms. Cerbone stated that Staff recently conferred with the lead Rostan Consultant regarding the FEMA filing and will continue to coordinate and exchange documents.

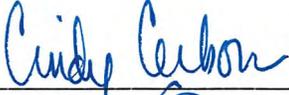
- **NEXT MEETING DATE: February 13, 2019 at 6:30 P.M.**

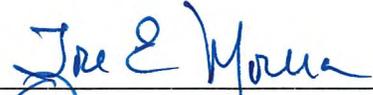
The next meeting will be held on February 13, 2019 at 6:30 p.m.

**TENTH ORDER OF BUSINESS**

**Adjournment**

There being no further business to discuss, the meeting adjourned at 8:04 p.m.

  
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Secretary/Assistant Secretary

  
\_\_\_\_\_  
President/Vice President