

**MINUTES OF MEETING  
SUNSHINE WATER CONTROL DISTRICT**

A Regular Meeting of the Sunshine Water Control District's Board of Supervisors was held on **Wednesday, November 4, 2015, 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
Jim Maguire	Vice President
Daniel Prudhomme	Secretary

**Also present were:**

Craig Wrathell	District Manager
Doug Paton	Wrathell, Hunt and Associates, LLC
Alfred J. Malefatto	Lewis, Longman & Walker, P.A
Gene Schriener	District Engineer
Bill Landis	Craig A. Smith & Associates, Inc.
Steve Zielnicki	Craig A. Smith & Associates, Inc.
Cory Selchan	Field Superintendent
John McKune	McKune & Associates
Steven Clearly	Greenspoon Marder Law
Brian DeGirolmo	DeGirolmo & Associates, Inc.
Dave Hulett	Resident

**FIRST ORDER OF BUSINESS**

**Call to Order**

Mr. Morera called the meeting to order at 6:33 p.m.

**SECOND ORDER OF BUSINESS**

**Roll Call**

Mr. Wrathell called the roll and noted, for the record, that all Supervisors were present, in person.

**THIRD ORDER OF BUSINESS**

**Pledge of Allegiance**

All present recited the Pledge of Allegiance.

**FOURTH 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.)*

Mr. Dave Hulett, resident, indicated that he read the Craig A Smith & Associates, Inc. (CAS) report on Pump Station #1 and was very disappointed, as the District did not receive what it paid for. Mr. Hulett is available to provide information and assistance, if required.

**FIFTH ORDER OF BUSINESS**

**Supervisors' Communications**

This item was presented after the Tenth Order of Business.

**SIXTH ORDER OF BUSINESS**

**Consideration of Coral Lago - Request for Release of Temporary Easement Agreement**

Mr. Malefatto stated that Sample Road Investments, LCC (SRI), was seeking the release of an easement, granted to the District by Coral Lago, in order for the plat to be recorded.

Mr. Steven Clearly, of Greenspoon Marder, P.A. (Greenspoon Marder), representing SRI, requested release and rerecording of the previously approved temporary drainage and flowage easement, which was omitted from the plat. Broward County Land Development Code requires that all easements be depicted on a plat, for recording. Once the easement is released, SRI plans to record the plat next week and then have the easement rerecorded.

Mr. Malefatto advised that there was no risk to the District and Staff would have access to the property, for maintenance; therefore, he had no objections.

**On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the Release of Temporary Easement Agreement and authorization for the President to execute, were approved.**

**SEVENTH ORDER OF BUSINESS**

**Continued Discussion: Pump Station #1**

Mr. Schriener reconfirmed the four recommendations for Pump Station #1, as outlined in the CAS report presented at the last meeting. Recommendations #1 and #2 should be started immediately and #3 and #4 could be addressed later, in sequence.

Mr. Wrathell indicated that the Board was deciding whether to pursue litigation against IBI Group Inc. (IBI) and inquired about the time limit to file suit.

Mr. Malefatto indicated that there are two statutes of limitation that are potentially applicable; a two-year statute of limitations for professional liability, for IBI's liability for Design flaws, and a four-year statute of limitations for breach of contract. The stronger case appears to be negligence and professional liability on the part of IBI. He recommended that District Counsel meet with the District's engineering team to review facts and develop a strategy. IBI's certificates of insurance (COI) are pending.

Mr. Malefatto disclosed the potential of perceived conflict of interest because IBI's involvement in the Lanzo Construction (Lanzo) litigation and his firm works with IBI in another district. District Counsel will inform the Board if it is determined that another firm should be retained for litigation

Mr. Wrathell had no additional updates. The Board and Staff first heard of possible problems in 2012, when the pumps turned off during a tropical storm, which was initially attributed to an FPL power issue.

Mr. Malefatto indicated that it was not until the CAS report was received that the problems and causes were identified. While it may have been realized that there was a problem as early as 2012, the reason was unknown.

Mr. McKune asked what defined the threshold.

Mr. Morera indicated that the Board must determine a timeline in which to address recommendations #1 and #2, in CAS's report.

Mr. Wrathell suggested waiting until CAS completes the Pump Station #2 report. Both pump stations will probably have issues and there are limited funds. The Board can prioritize pump stations upon receipt of all the information.

Mr. Landis commented that CAS is far enough along with its report to identify the issues at Pump Station #2, without a written report, and is collecting cost information with regard to corrective action; which may be discussed at the meeting with District Counsel.

Mr. Maguire wondered how the situation progressed to this point. No one realized that the pump stations were not designed and constructed properly and, at some point, it must be addressed. The estimated repair costs are already roughly \$2,000,000 and the District does not have funds to fix everything. Mr. Maguire pointed out that the pump components were not designed to meet the Hydraulic Institute Standards for engineering and best practices and asked how this was missed.

Mr. Landis advised against discussing this further, on the record.

Mr. Malefatto stated that the Board relied upon the expert advice of the District Engineer at the time.

Mr. Wrathell stated that, in his professional experience with projects throughout Florida, Districts rely upon and engage professional engineers. The District Manager is not a licensed professional engineer and is not qualified to provide engineering recommendations and read design specifications for a pump station. Management's commitment and focus is to do the right thing for the District. Per Statutory Requirement 298 for Water Control Districts, an updated drainage plan was provided by the District Engineer. The District Engineer advised of deficiencies in the drainage system, which made sense since the system that was built in the 1960s and no money had been expended on it for decades. Hydraulic analysis confirmed that there were deficiencies, from years of silt buildup, or improperly dug canals. Also, the pump stations were powered in such a way that the doors had to be opened during a storm to keep them running. Based upon the District Engineer's recommendations, it was determined that the projects were necessary. IBI developed specifications and plans to improve drainage in the District and bonds were issued to finance the work, based on IBI's professional recommendation. There were questions and deliberations during the approval process; the Board did not blindly approve what IBI presented. Mr. Wrathell indicated that, from a design perspective, Management is not qualified to evaluate IBI's use of certain sized pumps and motors and how large of an area they dug, unfortunately, there are problems with what IBI told the District. Everyone is upset and he pushed for the pump station analysis reports. Ultimately, the District relied on the professional engineers; IBI is a large multinational corporation and were presumed to be the experts but did not deliver what the District paid for.

Mr. Maguire inquired if the process started when Rhon Ernest-Jones Consulting Engineers, Inc. (REJ), was the District Engineer. Mr. Wrathell clarified that IBI purchased REJ

around the time of the Request for Qualifications (RFQ); by the time work began on the pump stations, IBI was the District Engineer.

Responding to a question from Mr. Maguire, Mr. Wrathell indicated that Mr. Ernest-Jones, as District Engineer and IBI representative, along with Mr. Tom Donahue, made the recommendations to the Board and Staff. He recollected that IBI owner REJ, at the time.

Mr. Landis voiced his opinion that the Board, District Manager, and Staff are in no way responsible for the performance of the previous Engineer of Record. The Recommendation for negligence and professional liability is “on the mark” because IBI was retained as the District Engineer. The Board and District Manager are not responsible for overseeing IBI’s professional engineering or failure to design to the standards, as stated. Mr. Landis stressed that District Staff is not accountable for the negligence of the previous Engineer of Record. IBI had the experience and the professional licensing capability but was negligent. He pointed out that the District did not actually know the defects until the CAS report was presented.

Mr. Schriener stated that analyzing the work of other engineers was painstaking. Discovery was made through the process. As an engineer, Mr. Schriener felt bad that this occurred but blame belongs to IBI, who performed the work. In the process of creating the report, CAS found other issues that will be shared with District Counsel.

In response to a question from Mr. Maguire, Mr. Malefatto confirmed that District Counsel has the capability and legal expertise to handle the case but will recommend retaining another firm, if a conflict of interest arises.

Mr. Morera indicated that no action was needed on CAS recommendations #1 and #2 until after the Pump Station #2 report is received.

**EIGHTH ORDER OF BUSINESS**

**Consideration of Resolution 2016-1, Designating a Date, Time and Location for a Landowners’ Meeting; Providing for Publication; Providing for an Effective Date**

Mr. Wrathell presented Resolution 2016-1 for the Board’s consideration. Per the Fiscal Year 2016 meeting schedule, the Landowners’ Meeting is scheduled for March 6, 2016. Mr. Prudhomme’s seat will be up for election.

**On MOTION by Mr. Prudhomme and seconded by Mr. Maguire, with all in favor, Resolution 2016-1, Designating a Date, Time and Location for a Landowners' Meeting; Providing for Publication; Providing for an Effective Date, was adopted.**

**NINTH ORDER OF BUSINESS**

**Approval of October 14, 2015 Regular Meeting Minutes**

Mr. Morera presented the October 14, 2015 Regular Meeting Minutes and asked for any additions, deletions or corrections.

The following changes were made:

Lines 155 and 156: Remove "which do not have agreements and"

Line 335: Change "with a 100% safety factor" to "at 100% of its service factor"

Line 370: Change "or bring in two additional pumps" to "on"

Line 413: Change "'D' rated" to "derated"

**On MOTION by Mr. Prudhomme and seconded by Mr. Maguire, with all in favor, the October 14, 2015 Regular Meeting Minutes, as amended, were approved.**

**TENTH ORDER OF BUSINESS**

**Ratification of September 9, 2015 Regular Meeting Minutes**

Mr. Wrathell indicated that the September 9, 2015 Regular Meeting Minutes were amended to correct the misspelling of names.

**On MOTION by Mr. Prudhomme and seconded by Mr. Maguire, with all in favor, the amended September 9, 2015 Regular Meeting Minutes, were ratified.**

▪ **Supervisors' Communications**

*\*\*\*This item previously the Fifth Order of Business, was presented out of order.\*\*\**

Mr. Morera wished everyone a happy Thanksgiving. He hoped the Board continued to move forward as a unified front towards the solution to the issues that have burdened the District.

**ELEVENTH ORDER OF BUSINESS****Staff Reports****A. Attorney: *Lewis, Longman & Walker, P.A.***

Mr. Malefatto indicated that Mr. Wrathell, Mr. Morera and Mr. Taylor, of Lewis, Longman & Walker, P.A attended the Lanzo litigation mediation held today. He stated that although mediation proceedings are confidential, Mr. Taylor felt that progress was made and will continue negotiating in hopes of reaching a settlement. If an agreement is not reached, the suit will proceed to trial. Once there is a recommendation, Mr. Taylor will share it with the Board.

Mr. Morera indicated that an Executive Session may be held so that District Counsel can share their insight about the correct strategy, going forward.

Mr. Malefatto has not received copies of the insurance documents that were requested but the District Manager's office provided a copy of the original contract. Mr. Wrathell clarified that IBI's level of coverage would be listed in the agreement; at most, District Management would only have COIs naming the District as an additional insured, under IBI's policy.

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

- **Monthly Engineer's Report**

- **October 7, 2015 - October 28, 2015**

Mr. Schriener presented the Engineer's Report. The District Engineer will meet with District Counsel to discuss the Pump Station #1 issues. The District Engineer's current priority is completion of the report on Pump Station #2; preliminary report should be available for the December 7, 2015 meeting. CAS is still reviewing alternative solutions for Pump Station #2. The overall analysis of Pump Station #2 was more difficult than the analysis of Pump Station #1; Pump Station #2 is the larger of the two stations. Work continues on the Interconnected Pond Routing (ICPR) modeling. The bridge data was added and West Outfall canal models were starting to be run; the results will, hopefully, be available for the December meeting. The Permit Criteria Manual was completed and will be emailed to the Board; all changes to the manual were indicated in red.

Mr. Maguire will be unable to attend or call into the December 7, 2015 meeting.

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

There being no report, the next item followed.

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

Mr. Selchan reported that there was very little rainfall in the past month, totaling less than 3". He noted that the water levels dropped to 6'7" in the East Basin and 7' in the West Basin.

Mr. Selchan wished the Board and Staff a safe and happy Thanksgiving.

Mr. Morera inquired about the status of the bid package for work to be done when water levels are low. Mr. Schriener indicated that the bid package was ready to go out for bid, once Mr. Selchan felt the water levels were low enough.

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

**i. Approval of Unaudited Financial Statements as of September 30, 2015**

Mr. Wrathell presented the Unaudited Financial Statements as of September 30, 2015.

Mr. Wrathell referred to the "Balance Sheet", on Page 1, and advised that most of the District's funds were in the "FineMark Bank - ICS" insured cash sweep account and were FDIC insured. Page 2, assessment collections were slightly above 101%. The District's overall expenses were significantly under budget for Fiscal Year 2015, which was attributed to unspent capital projects funds.

Mr. Morera inquired about the "Designated – disaster recovery" line item. Mr. Wrathell clarified that the Fiscal Year 2016 budget would reflect the adjusted \$2,500,000 amount.

Mr. Wrathell advised that the "Debt service fund", on Page 4, reflected the corresponding 101% assessment collection and the November 1, 2014 and May 1, 2015 debt service payments. The projected "Fund balance – ending" of \$842,505, was part of the required debt service reserve.

<p><b>On MOTION by Mr. Prudhomme and seconded by Mr. Maguire, with all in favor, the Unaudited Financial Statements as of September 30, 2015, were approved.</b></p>
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**ii. NEXT MEETING DATE: December 7, 2015 at 6:30 P.M.**

Mr. Morera indicated that the next meeting will be held on Monday, December 7, 2015 at 6:30 p.m. at this location.



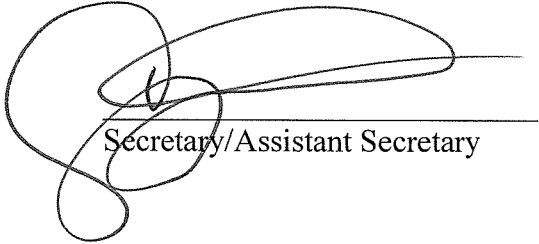
TWELFTH ORDER OF BUSINESS

Adjournment

There being no further business to discuss, the meeting adjourned.

**On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the meeting adjourned at 7:31 p.m.**

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



Secretary/Assistant Secretary

Joe E. Moore

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Chair/Vice Chair