

**MINUTES OF MEETING
SUNSHINE WATER CONTROL DISTRICT**

A Regular Meeting of the Sunshine Water Control District's Board of Supervisors was held on **Wednesday, January 11, 2017 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
Cindy Cerbone	Wrathell, Hunt and Associates, LLC
Alfred J. Malefatto	District Counsel
Mathew Taylor	Lewis, Longman & Walker, P.A
Steve Zielnicki	Craig A. Smith & Associates, Inc.
Orlando Rubio	Craig A. Smith & Associates, Inc.
Cory Selchan	Field Superintendent
John McKune	McKune & Associates
Mike Wilson	Broad and Cassel
Steven Wherry	Greenspoon Marder, P.A.
Rebecca Mathews	Resident
Court Reporter	

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

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.

Mr. Morera announced that an Executive Session of the Board of Supervisors would be held, pursuant to Section 286.011, Florida Statutes, to provide direction to District Counsel in the Sunshine Water Control District (SWCD) vs. IBI Group Inc., (IBI) and Rhon Ernest-Jones litigation.

FOURTH ORDER OF BUSINESS

Recess Regular Meeting

The Regular Meeting recessed at 6:31 p.m.

FIFTH ORDER OF BUSINESS

Commencement of Attorney-Client Session

The Attorney-Client Session commenced 6:32 p.m.

Mr. Wrathell noted, for the record, that the Board President, Vice President, Secretary, District Counsel, Co-Counsel, Special Counsel, District Manager and a court reporter, were attendees.

SIXTH ORDER OF BUSINESS

Termination of Attorney-Client Session

The Attorney-Client Session closed at 7:30 p.m.

SEVENTH ORDER OF BUSINESS

Reconvene Regular Meeting

The Regular Meeting reconvened at 7:31 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.

▪ **Coral Lago Signage Easement**

*****This item, previously Item 12.A., was presented out of order.*****

Mr. Malefatto stated that the developer of Coral Lago requested permission to install a sign on the District’s canal right-of-way. Staff reviewed the easement and had no issues; however, Mr. Selchan recommended additional indemnification language, which the developer’s

attorneys agreed to. Under Paragraph 6, Coral Lago would indemnify the District for any claims arising from damages resulting from the sign.

In response to Mr. Morera's question, Mr. Zielnicki stated that the sign would be placed at the entrance of Coral Lago, off of University Drive, on the side of the District's culvert. It would have the name of the community and a trellis. Mr. Malefatto stated that, in addition to the indemnification, the District would be included on the owner's liability insurance policy. Mr. Prudhomme asked if Coral Lago would have a Homeowner's Association (HOA) and, if so, who would be responsible for the insurance when the developer was no longer involved. Mr. Steven Wherry, Developer's Counsel, of Greenspoon Marder, P.A., confirmed that there would be an HOA, which would assume ownership of the sign and be obligated to perform duties called for in the agreement. Mr. Prudhomme stressed that the HOA must factor the insurance cost of the sign into its budget and, if the HOA chose not to insure the sign or relinquished ownership, the HOA would be in breach of the agreement and the District would have the right to require the HOA to remove the sign. Mr. Wrathell stated that vertical assets, such as signs, were insurable for a nominal amount.

<p>On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the Signage Easement Agreement between the District and CDCG 3 HOV Portfolio LP, was approved.</p>

▪ **Permit Application Discussion and Recommendations - 339 NW 105th Terrace**

******This item, previously Item 12.B., was presented out of order.******

Mr. Zielnicki advised that a permit application was submitted by Ms. Rebecca Mathews, a resident, to install a 4' high aluminum fence, at the rear of the property, on the West Outfall Canal. The plans met the criteria in the Permit Criteria Manual (PCM); however, since improvements to the West Outfall Canal were forthcoming, which may have adverse impacts to the right-of-way (ROW), Craig A. Smith & Associates (CAS) recommended a temporary permit.

In response to Mr. Morera's question, Mr. Zielnicki stated that the permit application was reviewed by Mr. Selchan, Ms. Cerbone and himself and there was agreement to issue the temporary permit. Mr. Malefatto drafted the ROW Fence Encroachment Agreement, which included the condition of the permittee removing the fence with 30 days notice from the District.

Mr. Selchan stated that Ms. Mathews requested the fence, based on the PCM allowing for a 10' encroachment, if the property was 35'. Ms. Mathews was advised that, if the District approved the permit, the fence could be in place until that section of canal was addressed and, once the work was completed, a determination would be made whether the criteria was still met and the fence could be reinstalled. In response to Mr. Morera's question, Ms. Mathews stated that she was a fence contractor and, based on the color and type of material along the back of the fence, which would be facing the water, landscaping on the outside of the fence was not required.

Mr. Wrathell stated that Staff did a great job of setting the precedent that the fence could be in place, until commencement of the work, and gives the District the discretion to make decisions. Mr. Malefatto stated that the precedent would be for a temporary fence and future requests for temporary fences could be considered.

On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the 339 NW 105th Drive, Coral Springs, CAS Project #15-1826 right-of-way permit application, for a fence, subject to the special conditions, as set forth in the CAS recommendation letter dated January 4, 2017, and authorizing execution of the Right-Of-Way Fence Encroachment Agreement, were approved.

NINTH ORDER OF BUSINESS

Approval of Unaudited Financial Statements as of November 30, 2016

Mr. Wrathell presented the Unaudited Financial Statements as of November 30, 2016. Revenues were at 16%. Activity was extremely limited; however, there was a large expense under "Field equipment", for the purchase of the trucks. On Page 5, \$141,377 was in the "Capital Projects Fund" and would be used for the West Outfall Canal project.

On MOTION by Mr. Prudhomme and seconded by Mr. Maguire, with all in favor, the Unaudited Financial Statements as of November 30, 2016, were approved.

TENTH ORDER OF BUSINESS

Approval of November 9, 2016 Regular Meeting Minutes

Mr. Morera presented the November 9, 2016 Regular Meeting Minutes and asked for any additions, deletions or corrections.

Mr. Malefatto emailed changes to Ms. Cerbone, which would be incorporated.

On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the November 9, 2016 Regular Meeting Minutes, as amended, were approved.

ELEVENTH ORDER OF BUSINESS

Supervisors' Communications

In response to Mr. Maguire's comment, Mr. Morera stated that Mr. Erdal Donmez, Coral Spring City Manager, announced his retirement. Mr. Maguire felt that Mr. Donmez did a great job and wished him luck.

Mr. Prudhomme hoped that 2017 would be a great year.

Mr. Morera hoped that, in 2017, the District would have meaningful defined projects and accomplish large and small projects. He thanked everyone for their continued contributions and support of the District.

TWELFTH ORDER OF BUSINESS

Staff Reports

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

- **Legal Fee Review**

Mr. Malefatto recalled that, several months ago, Ms. Cerbone requested a review of legal fees from when the firm was initially retained. In 2009, the rate was \$250 per hour. The engagement letter set the rate at \$250 per hour but, on an annual basis, the rates would increase. Mr. Malefatto distributed a summary showing how rates evolved for himself, Mr. Lewis and Mr. Capko, from \$250 per hour, in 2009, to the present \$295 per hour. The standard billing rate was \$415 per hour, which was crossed out to reflect the \$425 per hour standard rate as of January 1, 2017. A decision was made by the firm not to increase the District's rates and charge \$295 per hour.

Mr. Wrathell stated that, since the transition of legal services to Mr. Malefatto, continuity improved and legal fees remained within budget. Mr. Morera stated that Mr. Malefatto was a

welcome addition. Mr. Malefatto appreciated the comments, noting that Mr. Capko and Mr. Lewis were available for consultations.

Mr. Malefatto reported that the Department of Environmental Protection (DEP) passed an emergency rule about reporting incidents of pollution, due to two incidents; one at a Mosaic Fertilizer phosphate mine, and the second, a sewage release into Tampa Bay in the City of St. Petersburg. The Associate Industries of Florida, Florida Retail Association and Florida Trucking Association, among other business organizations, felt that the State overreached by acting without authority, challenged the proposed rule and won. DEP had until the end of the month to appeal the decision. Mr. Malefatto speculated that DEP would not appeal but would pass legislation giving them the authority to do what they tried to do. DEP argued that they had the authority through statutes but the judge did not agree.

- **Coral Lago Signage Easement**

This item was presented following the Eighth Order of Business.

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

- **Permit Application Discussion and Recommendations**

- **4000 Block of NW 126th Avenue**

Mr. Zielnicki stated that Exeter Property Group, submitted a permit application for Sawgrass Bend Corporate Center, located in the Corporate Park, near Advanced Hood Systems (AHS), to complete Phase 2 and the final buildout. An additional building with paving was proposed. Various revisions were made to the plans, which were in compliance with the District's PCM. The work entailed demucking the canal adjacent to the AHS canal to continue the AHS canal work, which was included in the permit as a special condition. CAS recommended approval, subject to the conditions outlined in the recommendation letter dated January 4, 2017.

On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the Exeter Property Group, Sawgrass Bend Commerce Center permit application, CAS Project #15-1826, subject to the special conditions, as set forth in the CAS recommendation letter dated January 4, 2017, was approved.

- **12410 NW 39th Street**

Mr. Zielnicki stated that MM 12410 LLC submitted a permit application for an existing warehouse in the Corporate Park. The work would include paving, modifying the existing outfall into the canal and demucking the canal adjacent to the property. CAS recommended approval, subject to the conditions outlined in their recommendation letter dated January 4, 2017.

On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the MM 12410 LLC, 12410 NW 39th Street warehouse permit application, CAS Project #15-1826, subject to the special conditions, as set forth in the CAS recommendation letter dated January 4, 2017, was approved.

- **339 NW 105th Terrace**

This item was presented following the Eighth Order of Business.

- **Wiles Road Permit Modification**

******This item was added to the agenda.******

Mr. Zielnicki recalled that, at the May 18, 2016 meeting, the Board approved a permit to the County for improvements to Wiles Road, from Riverside Drive to Rock Island Road. The County requested that the \$2,500 trash bond, which was a condition of the permit, be waived. Mr. Zielnicki and Mr. Selchan agreed that the trash bond could be waived without harm to the District. Since Mr. Selchan never had problems with any Broward County project, he felt that it was fair to waive the fee; unresolved issues could be brought to the Board's attention.

On MOTION by Mr. Prudhomme and seconded by Mr. Maguire, with all in favor, waiving the \$2,500 trash bond requirement for the Broward County Wiles Road improvement permit, was approved.

- **Monthly Engineer's Report**

Mr. Zielnicki presented the Monthly Engineer's Report.

- **Coral Springs Drive Bridge Improvements**
- **West Outfall Canal Improvements**

Mr. Zielnicki stated that the geotechnical work for the canal and the Coral Springs Drive bridge were completed. Sediment tests revealed that the excavated material was unusable and must be disposed of, resulting in higher disposal fees. CAS would coordinate with Waste Management (WM) on the price, based on the current geotechnical report. The survey work was delayed beyond the original expectations, due to the holidays; however, the survey should be completed two weeks prior to the completion date.

Mr. Rubio distributed an exhibit of the plat and canal ROW limits. There is a cluster of trees and vegetation, which, according to the aerial, was not vast; however, a large amount of time was spent surveying each tree to include on the survey. Once the survey was finalized, there would be a better idea of the appearance of the canal section. Mr. Rubio would coordinate the survey with Mr. McKune and Mr. Selchan, prior to inclusion in the engineering drawings. On Friday, a copy of the Canal Geotechnical Report was sent to WM. A field meeting, with a contractor interested in performing the work, would be held, on site, to determine how the contractor would perform the work, so the plans could be developed, accordingly. Challenges with the encroachments, coordination of the encroachments, permitting, mitigation of the vegetation and material disposal method costs, would affect total project costs. Once consensus was reached on the final canal section, plans would be developed and permitting from the South Florida Water Management District (SFWMD) and the County would be obtained. By the next meeting, Mr. Rubio expected 30% of the plans to be completed.

Mr. Morera asked what method the contractor would use to transport the material offsite. Mr. Rubio planned to perform the dredging in the dry, which entailed dewatering and installing temporary dams. Other options were lowering water levels, performing the work in segments or building two dams. If the work was completed in segments, the dams must be moved from segment to segment. Each segment is dewatered, then the material is excavated and stored at the site to allow for a drying period before being hauled off site. The contractor may have a specific site to haul the material to; however, the material was deemed to be of a commercial industrial grade and not permissible for recreational use. The geo-techs recommend hauling the material to a landfill or commercial industrial site, which would be considered in the final costs.

Mr. Morera recalled that during the Canal Z Project, homeowners complained about the smell and requested that this be taken into consideration, as well as the method for selecting the contractor and keeping the City apprised. When the project was bid, Mr. Rubio would include a

questionnaire requesting proposed methods of construction; the contract should be awarded to the lowest, most responsive, responsible bidder. Mr. Morera asked for the timeline of the work. Mr. Rubio wanted the survey to be completed so he could meet with Staff and determine the cross section, prior to preparing the engineering drawings. Once the final section was chosen, the process of obtaining permits and putting the project out for bid could commence. The County and SFWMD permit process was 90 days, starting with applying for a temporary construction dewatering permit but, once the contract was awarded, the contractor could modify the permit to their dewatering methods. The goal was to complete the work in the dry season.

Mr. Maguire requested a plan, in February, with steps and time frames and, due to past challenges with resident communication, a five-year plan to present to the City. Mr. Selchan stated that until the survey was completed and the cross sections and the amount of room necessary to perform the canal work were determined, the District could start the bidding process; however, the cross sections have not been determined. Mr. Selchan asked the District Engineer to provide information about the cross sections by the next meeting, including the width of the canal, across the bottom, what would remain on each side and how it affected the contractor and homeowners.

Mr. Wrathell voiced concern about utilizing a contractor's innovative method to dispose of fill and suggested informing bidders that, if their method failed, they would be held responsible. To address Mr. Morera's concern, Mr. Rubio would base the estimate on hauling the fill to the landfill. Mr. Wrathell asked if the District would be legally liable if a contractor hauled the material in an improper way. Mr. Malefatto replied that, if the fill was contaminated, the District and the contractor were responsible, even after disposal; however, if it was clean fill, only the contractor would be responsible. This verbiage should be in the contract. Mr. Rubio would discuss the District's expectations at the pre-bid meeting.

Mr. Maguire asked if Canal Z could be blocked at the West Outfall Canal, forcing the water to flow towards Dunkin' Donuts®. Mr. Selchan stated that the water flows down Coral Spring Drive, under Royal Palm Boulevard, turns and flows under Coral Springs Drive, along the gas station. Past Dunkin' Donuts® it turns due south, toward the pump station. The West Basin was divided into two sections and the purpose of the gates was to prevent flooding in the west, which was extremely effective, especially the County Club area and Westchester.

Discussion ensued regarding the flow of water within the District.

In response to Mr. Prudhomme's question, Mr. Selchan stated that a 100-year storm, lasting more than one day, would flood roads in the District; however, since Florida did not have valleys, what occurred in Louisiana and areas in the Midwest, where water reached rooftops, would never happen; water would sheet flow out of the canal, run down streets and into the ocean. It would only flood golf courses. House elevations were 12' above sea level. Mr. Rubio stated that, according to the stormwater criteria, land development projects were designed to flood and rainfall, exceeding the 100-year storm amount, would cause water to flow into houses.

Discussion ensued regarding flooding during a 100-year storm.

C. District Engineering Consultant: *John McKune*

Mr. McKune was meeting with Metro Equipment (Metro) this Friday to discuss innovative ways to perform the West Outfall Canal work.

D. District Field Supervisor: *Cory Selchan*

Mr. Selchan reported that the District received rain every day but not enough to raise water levels in the canals. The water level in the West Basin was down 1' and 2.5' in the East Basin. Spraying was completed and the canals look good; however, residents were not happy about the low water levels. So far, the District was off to a good start and hopefully, small projects could be completed, while planning for the larger ones, which must be completed in the dry season. The main outfall must be functioning during the rainy season. If it must be blocked, during the rainy season, the means and methods would be removable, except for dirt berms.

In response to Mr. Maguire's question, Mr. Selchan indicated that the County was performing maintenance to the bridge, due to issues raised at the meeting with the District. The County was improving the area leading to the bridge with a different type of abutment and guardrail. Rods running through sections of the bridge to hold them together were replaced. The asphalt will be stripped, replaced with a material that prevents water from running through different sections of the bridge and asphalt would be reapplied, so that the water would not erode the material, once the improvements were completed. In response to Mr. Maguire's question, Mr. Selchan stated that all work was completed on top and on both sides of the bridge.

Mr. Maguire noticed silt fences against the canals on the west side of University Drive, in the Broken Woods area, and asked if the County was working on those canals. Mr. Selchan stated that a turn lane was under construction and the City required new drainage and infrastructure as part of the subdivision. Mr. Maguire asked if the work would impact the canal.

Mr. Selchan replied that there would be minimal impact; however, Staff requested the excavation of a small section at the entrance to absorb the additional water coming from the roadway. In response to Mr. Maguire's question, Mr. Selchan replied that the project was proceeding well and Staff often met with representatives of Coral Lago and the contractor to monitor the project. Mr. Zielnicki stated that the purpose of the silt fencing was to protect the new infrastructure. Mr. Selchan spoke to Mr. Brian DeGirolmo, of DeGirolmo & Associates, last week, regarding the Country Club of Coral Springs (County Club), which was at the southern portion of the project, about the location of the guardrails to access the canal.

Mr. Maguire asked about the status of City Hall. Mr. Selchan stated that there was an issue with the headwall. Steel pins holding the headwall were sticking out, which was not an immediate concern but, over time, it could rust, causing the structure to fall apart. Discussions with their engineer and contractor on how to remedy it were underway. Mr. Maguire asked if the City started the canal work from the Post Office. Mr. Selchan replied that demucking was completed when the site was cleared but it was not dewatered or shaped the way the District expected, which they were aware of. Mr. Morera asked if there was enough room. Mr. Selchan felt there was not enough room, even though the City believed that there was. There was a new Superintendent who did not see the problems.

In response to Mr. Maguire's question, Mr. Selchan did not receive a response from the Carriage Point HOA for paying half of the cost to remove the pipe. If there was no feedback, no action was necessary.

Mr. Selchan reported that employees were on schedule with their work and happy with the new trucks. Other than minor issues, the District fared well in the past year and into the beginning of this year.

- **Update: Pump Stations #1 & #2**

This item was not discussed.

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

- **Update: Closing Meeting with Auditor General**

Mr. Wrathell distributed the final response from the Auditor General. Prior to the holidays, Mr. Wrathell, Ms. Cerbone, Mr. Malefatto and Mr. Pinder met with representatives from the Auditor General's office to respond to findings that were not corrected. A number of items were deemed best management practices (BMPs), versus what was statutorily required,

such as periodically bidding out District Management, District Counsel and District Engineering services. Mr. Wrathell advised that the Board could bid those services at any time, as Staff served at the will of the Board. Fraud and Change Order Policies were adopted. The representatives were not going to perform any future audits on Special Districts because they did not understand them. Mr. Wrathell and Mr. Morera felt that the purpose of the audit was political.

Mr. Morera stated that points from prior audits were addressed and the same answers were provided. Mr. Wrathell stated that the Auditor General had one last opportunity to provide comments but the District had no further opportunities to respond. Mr. Wrathell requested that Mr. Morera execute the Report from the Auditor General and the District's response, to meet tomorrow's deadline to respond. Mr. Malefatto reviewed the documents and provided comments.

Mr. Maguire's seat would be up for re-election in March.

- **NEXT MEETING DATE: February 8, 2017 at 6:30 P.M.**

Mr. Wrathell indicated that the next meeting will be held on Wednesday, February 8, 2017 at 6:30 p.m., at this location.

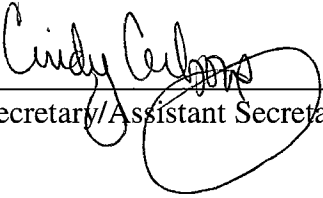
THIRTEENTH ORDER OF BUSINESS

Adjournment

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

<p>On MOTION by Mr. Maguire and seconded by Mr. Prudhomme, with all in favor, the meeting adjourned at 8:55 p.m.</p>

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]


Secretary/Assistant Secretary


Chair/Vice Chair