

**MINUTES OF MEETING  
SUNSHINE WATER CONTROL DISTRICT**

The regular meeting of the Board of Supervisors of the Sunshine Water Control District was held on Wednesday, March 14, 2007 at 6:30 p.m. in the Commission Chambers at Coral Springs City Hall, 9551 West Sample Road, Coral Springs, Florida.

Present and constituting a quorum were:

Russell Parks	President
Mary Macomber	Vice President
Phillip J. Sobers	Secretary

Also present were:

Bob Nanni	Manager - Severn Trent Services
Mona Slaughter	Severn Trent Services
Cory Selchan	Severn Trent Services
Bruce Cranmer	Attorney
Cedo DaSilva	CH2M-Hill
Peter Colussy	CH2M-Hill
Daniel Bohorguez	CH2M-Hill
John Petty	
Several Residents	

**FIRST ORDER OF BUSINESS**

**Roll Call**

Mr. Nanni called the meeting to order and called the roll.

Mr. Nanni stated I work for Severn Trent Services as a District Manager in the Celebration office.

**SECOND ORDER OF BUSINESS**

**Approval of the Minutes of the February 14, 2007 Meeting**

Mr. Nanni stated each Board member received a copy of the minutes of the February 14, 2007 meeting and requested any additions, corrections or deletions.

There not being any,

On MOTION by Ms. Macomber seconded by Mr. Sobers with all in favor the minutes of the February 14, 2007 meeting were approved.
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**THIRD ORDER OF BUSINESS**

**Award of Contract for the Purchase of Light Trucks (Non-Fleet)**

Mr. Nanni stated staff recommends pulling this item from the agenda.

**FOURTH ORDER OF BUSINESS**

**Staff Reports**

**A. Attorney**

There not being any, the next item followed.

**B. Engineer – Award of Bid for Tree Removal**

Mr. Colussy stated I am with CH2M-Hill and the Project Manager for the non-hurricane tree removal project, Phase 2 for the Sunshine W.C.D. We received five bids yesterday for removal of the non-nuisance trees. We reviewed these bids and based on the contingencies in the letter I am providing to the Board, we recommend award to the lowest bidder B.G. Katz Nurseries, LLC. from Parkland, Florida.

Mr. Sobers asked do we have any track record with B.G. Katz Nurseries?

Mr. Colussy responded I do not have any track record with them nor does anyone in my office.

Mr. Sobers asked have they performed work in the South Florida area?

Mr. Colussy responded they submitted five references. I was able to reach two of those five references; the City of North Lauderdale who awarded them a \$1.398 million contract and the Palm Beach County Solid Waste Authority who awarded them a \$900,000 contract. I spoke to the Project Managers for both entities and they were pleased with the work B.G. Katz performed. The City of North Lauderdale has been working with B.G. Katz for two years and is pleased with their work.

Ms. Macomber stated I am concerned about the bid protest with regard to the complaint the requirement of the bid is for the General Contractor’s license to be pulled. Apparently this company has their license in the name of another individual. How does this affect us and what about the bid award?

Mr. Cranmer responded under the statute, the advertisement is placed in the newspaper and sealed bids are submitted. There are certain requirements for these bids including the sealed package. Article 1.8 of the Instructions to Bidders states the bidder must submit a general contractor’s license in the name of the company submitting the bid. You can have a company not qualified under the statute have a Certificate of Authority in their name. They can use

someone else's license but they have to apply through the state to get a Certificate of Authority from the Department of Business and Professional Regulation. The corporation seeking the contract must have a licensed contractor who has been issued a Certificate of Authority for this company.

Bidders can be rejected based on lack of competency under Article 1.8 c2, which can be revealed by "qualification statements, financial statements, experience records or other questionnaires" through a variety of criteria. One such criteria is for references within a closed time frame within a similar dollar amount. This tells us whether the bidder is financially capable to do the job. There is also the licensure issue. The application or bid submitted by the lowest bidder shows the license of an individual who has a Certificate of Authority for an unrelated company. This allegation has been made under the protest. Once our intentions are revealed as to which direction we are heading, the other bidders can file a Bid Protest within 72 hours and a formal protest within 10 days thereafter. This stops the process. The exception is we can say "Forget about the rules, we have an emergency and cannot worry about going through a Chapter 120 Administrative Hearing in front of an administrative judge." We do not have an emergency, although this is a factor for you to determine.

As far as I know, a Notice of Protest was filed on March 14<sup>th</sup> but I do not know whether this was within the 72 hour period. Those facts are yet to be determined. The correspondence sent to me may be considered a formal protest. I do not know whether it was the initial one or formal one. In any case, a Notice of Protest has been filed. The essence of their argument is the lowest bidder does not have a qualifying licensed general contractor who has been issued a Certificate of Authority binding him to this company. The Department of Business and Professional Regulation maintains these records. I researched all statutes but have not checked with DBPR. The allegation is the lowest bidder's qualifying agent is listed with another company and does not have the Certificate of Authority to act as the person of knowledge. This is one criteria for you to consider along with their references, bonding ability, types of jobs performed, etc.

However Article 1.8(a) does not say "The bidder may", it says "The bidder shall submit a State of Florida certified general contractor's license in the name of the company submitting the bid. We have seven days not including weekends and holidays to resolve this issue, after which Chapter 120 of the Florida Administrative and Procedure Act takes over before an administrative

judge. The problem is summer is coming and we need to get some of these trees removed as quickly as possible. I recommend the Board expedite this process one way or the other with the lowest bidder or another bidder.

You are required to select the lowest bidder filing a responsive bid. A responsive bid is one where the application is complete and touches all the bases in the criteria. The Board has to determine whether or not this is a responsive bid.

Ms. Macomber stated thank you for giving us a complete answer. I have serious concern about this being a fatal flaw as well as the potential liability. If we hire an individual and the company does not have a Certificate of Authority, we have some liability.

Mr. Cranmer stated you can take this into account. The statute seems to suggest Chapter 489 and other statutes cited by the protester in their letter require this licensure.

Ms. Macomber stated in this case, I suggest we award the contract to the second lowest bidder, who is the most responsive bidder.

Mr. Cranmer stated we do not know for sure the lowest bidder is unqualified by not having a qualified agent with a Certificate of Authority from DBPR. Perhaps your motion should be to award the contract to the other bidder subject to the lowest bidder providing the Certificate of Authority. The public record may be incorrect, obsolete or the website may be missing a page or the certificate is posted incorrectly. We do not know. You may want to give them an opportunity to prove they have a Certificate of Authority from a licensed general contractor who is the qualifying agent of this company, which is required on our list of criteria in the qualifications. Article 1.18 of your bid requirements states "You reserve the right to reject any and all bids with or without cause or waive any informality or irregularity." Statute 489 says when the ultimate body hires a contractor, they need to have a qualifier who is a general contractor attached to them with a Certificate of Authority. It should be posted in the DBPR public records. You have the right to accept a bid that is in the best interest of the District.

Ms. Macomber stated my concern is the liability potential for doing so.

On MOTION by Ms. Macomber seconded by Mr. Parks with all in favor the tree removal contract was awarded to B.G. Katz Nurseries subject to providing documentation showing the general contractor has a Certification of Authority for their company by Monday, March 19, 2007. If they do not submit the correct documentation by the close of business on March 19<sup>th</sup>, the contract will be awarded to the next lowest bidder, American Earth Movers, pursuant to Chapter 489 of the Florida Statutes.

Ms. Macomber stated thank you, Mr. Cranmer. This was very helpful.

Mr. Nanni asked do we want to give B.G. Katz direction on who to provide the information to?

Mr. Cranmer responded they should fax the information to me and I will deliver it to you. There is a possibility the state records are incomplete or not up to date. It does happen. The second bidder met the criteria.

Mr. Knight stated I am a representative of Stiles Landscaping Company and one of the bidders. We were advised by CH2M-Hill we can come here tonight to protest because of the short notice but your attorney said we have 72 hours to file the bid protest. If it is not resolved today, do we have time to file if it is not awarded to the second lowest bidder?

Mr. Cranmer asked when was the official notification given?

Mr. Knight responded tonight. Does this mean we have 72 hours from tonight?

Mr. Cranmer responded yes.

Mr. Hankin stated I represent the bid protestor, American Earth Movers. According to the District Attorney, the company must hold a Certificate of Authority. I may have misunderstood but my understanding is the company has to hold a Certificate of Authority showing Mr. Lang as the qualified general contractor.

Mr. Cranmer stated correct.

Mr. DaSilva stated under the Engineer's Report, we have an update on the stormwater. Mr. Bohorguez is working on the calculations. We have a small presentation to give you an update on where we are going. We hope to have the final results in a month.

Mr. Bohorguez stated at this time, I will give a presentation on what we completed in regards to the drainage system in the District. The first slide shows the original conditions in 1977. Some preliminary studies were performed at the time. Initially the District was divided into two different basins. Within each basin, there are two pump stations, each with a capacity of

150,000 gallons per minute to pump south through two miles of canals to the C-14 Canal. Those considerations were made in 1977 when only half of the District was developed. The preliminary studies give us the results of some elevations with the constructed road elevation being 11.1' and the finished road elevation being no lower than 12.5' for the east basin and 11.0' for the west basin.

Ms. Macomber asked is this the road surface elevation?

Mr. Bohorguez responded yes. The finished floor is 11.5'. The conditions for the District changed in regards to the main distribution of the water and how much is being developed. We are taking the subdivision as it looked in 1977 using the same two pump stations and subdividing each basin into small sub-basins. My co-workers are getting this information piece by piece for each individual basin and looking at the new residential density, new facilities, parks, lakes and canals. We are going to take the pump stations and the condition of the culverts into account. We will contact the National Weather Service and SFWMD to obtain historical data on what the canal levels have been at for 10 years.

Ms. Macomber asked how many sub-basins are there?

Mr. Bohorguez responded approximately 30.

Mr. DaSilva stated each sub-basin is connected by a culvert. The culvert will be analyzed under the system using ICPR. Hopefully this will show how the pump under the 10 year or 100 year event, will distribute water to culverts, canals and sub-basins. When we come before the Board next month we should have several scenarios showing what the actual elevations are and if we have any problem areas, we can give you some recommendations.

Ms. Macomber stated this will give us better information than we currently have.

Mr. DaSilva stated at the next meeting we will have this information and recommendations on what can be improved.

Ms. Macomber asked do you think you will have this completed by the next meeting?

Mr. DaSilva responded yes. We are 50% completed.

Ms. Macomber stated I am interested in seeing this.

### **C. Superintendent**

Mr. Nanni stated I provided my card to each Board member. Please feel free to contact me by cell phone, office phone or email with any questions or concerns.

**SEVENTH ORDER OF BUSINESS**                      **Approval of Financials and Warrants**

Mr. Sobers stated these seem to be straight forward.

On MOTION by Ms. Macomber seconded by Mr. Parks with all in favor the financials and warrants 8959-8975 dated March 14, 2007 in the amount of \$21,307.46 were approved.

**SIXTH ORDER OF BUSINESS**                      **Supervisor Requests and Audience Comments**

Mr. Hewlett stated something has changed. I assume Mr. Petty was re-assigned by the company. Are you the new District Manager?

Mr. Nanni responded I have been re-assigned to this District. Mr. Petty's business with the corporation is between him and the corporation. I am not privy to it.

Mr. Hewlett stated I thought there was going to be an election tonight.

Mr. Cranmer stated we were going to have our annual election, however, the Fort Lauderdale News Sun Sentinel had a malfunction during the time the advertisement was due to be published and it did not appear in conformity with the statute. To follow the rules, we had to advertise the landowners meeting for April. It was not the District's fault. It was the Sun-Sentinel's fault.

Mr. Hewlett asked are you going to wait until Monday to award the tree removal contract in order to re-evaluate who you are going to pick?

Mr. Nanni responded we are not going to re-evaluate.

Mr. Hewlett stated I mean until the other company submits their qualifications.

Mr. Nanni stated correct.

Mr. Cranmer stated to see if the state records are incorrect or not up to date. The third bidder Stiles bid the same lump sum amount but they were \$50 higher on the cost per tree for removal. It was a close call in terms of the amounts.

Mr. Hewlett asked if this contract is awarded, will work begin in the second week of April?

Mr. Selchan responded I imagine within 30 days.

Mr. Colussy stated within 30 days or sooner if possible.

Mr. Hewlett stated thank you.

Ms. Macomber stated it is nice to see you, Mr. Hewlett.

Mr. Petty stated I apologize for coming to you in this fashion. This is something I hoped to avoid and something I have been working on for the last year and a half to avoid. I was not able to accomplish this task. My intent was to keep the corporate business at the corporate entity and the District business as my priority. I have not been able to do so. I am no longer in the employ of Severn Trent Services. I believe where we started a year and a half ago and where we are now is significant in terms of progress. I looked at what we have done with Hurricane Wilma in regards to the tree cleanup and public hearings. You became more independent with greater powers and expanded resources to provide better response times. I have to tell you how difficult it is for me to sit back here and not speak. I am here tonight to talk to the Board about maintaining this momentum and offer my services as an individual for the management contract for the District if the Board sees the benefit of doing so in order to maintain our system.

Ms. Macomber stated I have been concerned with the turnover at Severn Trent Services during my tenure on this Board. It seems like we get good people and have a good relationship and then they are gone. Mr. Petty has been fantastic over the past year and a half.

Mr. Parks stated I agree.

Ms. Macomber stated we respect you and more importantly our citizens of the Sunshine WCD who we serve trust and respect you. In my opinion, this is a plus. I am not thrilled with Severn Trent Services. Is it possible for us to change our management company? When are we due to renew Severn Trent Services contract?

Mr. Cranmer responded I believe there is an annual renewal with a 60 day termination provision.

Mr. Petty stated as long as no one disputes, their contract continues.

Ms. Macomber stated the concern I have about this is to have everything continue as it has been at no increased cost. I presume this is what Mr. Petty proposes.

Mr. Petty stated over the last year and a half, we rebuilt the Sunshine WCD to make you stronger. You have your field staff comprising of Mr. Cory Selchan and his field crew. This stays no matter what. The accounting is done in-house and remains in place. You have Ms. Larned as Treasurer and I have complete faith in her ability to perform the functions of the District while she remains with Severn Trent Services. Everything else is handled through my office with the people I bring on board under this proposal. There is not much to bring forward



other than record keeping since the rest we rebuilt within the system and made Sunshine stronger.

Ms. Macomber asked what do we need to consider in terms of paperwork?

Mr. Cranmer responded Mr. Petty needs to submit a business proposal for the Board to vote on and then you give Severn Trent Services 60 days notice.

Ms. Macomber stated I request Mr. Petty submit a proposal at his earliest convenience.

Mr. Petty stated I will have one ready for your next meeting.

Mr. Cranmer stated since the 72 hour notice starts tonight and it appears the third bidder may file a protest, perhaps the Board should amend the motion subject to completion of the 72 hour notice.

Ms. Macomber asked will the award go to the second lowest bidder?

Mr. Cranmer responded yes. However, if you select the second lowest bidder, Stiles will file a protest within 72 hours. The Administrative Procedure Act says, "Upon receipt of a notice of protest within the 72 hour period, all solicitation or contract award processes has to be suspended pending resolution".

Mr. Knight stated the only reason we are going to file a protest against B.G. Katz is because they do not have a license. We will not protest against the second lowest bidder as they are a qualified company. If you resolve this matter tonight, we will not protest. However, if you wait until the end of the 72 hour period and select B.G. Katz, we will file a protest through our law offices within 72 hours. If you read your documentation, even though B.G. Katz has done jobs, they have not done jobs of this type. Therefore, we will be filing two protests.

Mr. Cranmer stated the Board is saying, "We will award to B.G. Katz as the lowest bidder provided they meet the criteria it appears they missed". Unless the public records are not updated or incorrect, the bid may likely go to the second lowest bidder, which you do not have a problem with. I think we need to wait the entire 72 hours.

Mr. Knight stated because of principle, I will not allow it to wait and will file the protest. I have this right, unless you want to amend your motion to where if they do not follow the first motion, the award goes to American Earth Movers.

Ms. Macomber stated this is what we did. If we do not receive the certification by close of business on Monday, the contract will be awarded to American Earth Movers.

Mr. Knight stated I need to speak with my attorney, who is not available tonight.

Mr. Petty stated one of the reasons we asked for their license is in order to track it to make sure the contractor does not have a revolving set of licenses. What you did tonight in saying, "If we have the license, we can award the contract", does not give us the opportunity to do the tracking. You will not be giving staff enough time for due diligence to see if the contractor is qualified underneath the license and their history. The contract time period is fairly short and as such, I recommend you consider rejecting all bids and re-bidding the project. We can have this done in 30 days and award it clean. This puts us 30 days into the beginning of the rainy season and I suspect going through the process is going to exhaust the 30 days anyway. Since we have two bidders threatening to file bid protests, I recommend the Board consider re-bidding or awarding the contract to American Earth Movers since B.G. Katz did not fill the requirements of the bid.

Mr. Hankin stated Chapter 489 of the Florida Statutes sets forth a stringent procedure whereby the contracting entity has to apply for a Certificate of Authority. It is not as simple as someone placing a phone call and saying, "We want you to provide us with a Certificate of Authority" and it magically appears. If it not done yet, it is not going to be done within the next day or two.

Mr. Knight stated correct.

Mr. Hankin stated Mr. Petty's concerns are valid by this fact. If Mr. Lange is not qualified and he does not have a Certificate of Authority today, they are not going to have one on Monday. Therefore, I suggest we proceed with Mr. Petty's suggestion to award the contract tonight to the second lowest bidder.

Mr. Sobers stated this goes back to my original concern over B.G. Katz having a track record for this type of work.

Mr. Hewlett asked if the Board is going to consider a change in management companies, does it have to be bid?

Mr. Petty responded the management position is not competitively bid. This is similar to the appointment of Governor. The manager is selected by this Board as the best representative to do the job based on qualifications. The Board can do anything they wish such as putting it out for competitive bids, although, I recommend obtaining qualifications. The bottom line is it is up to the Board to decide.

Mr. Hewlett asked will the Board discuss this matter further at the next meeting?

Ms. Macomber responded we have to rely on District Counsel to guide us.

Mr. Hewlett stated if the Board is considering a change in management companies; let the citizens know so other individuals or entities can bid.

Mr. Cranmer stated I have a copy of the management contract with Severn Trent Services. However, I do not know if it is the most up to date version.

Ms. Macomber stated we appreciate Mr. Hewlett's comments and will take them under advisement. We never had to address this issue before and I believe the time has come to do so. Do we want to reconsider awarding this contract tonight?

Mr. Sobers asked does it have to be awarded to the lowest bidder?

Mr. Cranmer responded the lowest responsive bidder. A responsive bid means the Certificate of Authority ties the general contractor to this company. They must meet this criteria plus the financial criteria and performed similar jobs within a narrow time period of three years. They also have to meet the bond requirement.

Ms. Macomber stated I get the sense you are uncomfortable.

Mr. Sobers stated I am uncomfortable because everyone making this bid had the same criteria. Therefore, the parties approaching the table should be seriously taken into account if they meet the criteria. Why should we reject the bids because someone forgot to submit the required documents.

Mr. Cranmer stated we have the 72 hour period anyway.

Mr. Sobers stated it behooves them to bring the required documents or say, "Our documents are not up to date with the state, however, I have a certification saying the records are there".

Mr. Cranmer stated they would have addressed the Board if they had the required documentation. They are the lowest bidder by quite a few dollars. If it turns out the state made an error, we could be paying more.

Ms. Macomber stated we should give them 72 hours to respond


Mr. Sobers stated I will yield until Monday at 5 p.m.

**SEVENTH ORDER OF BUSINESS**

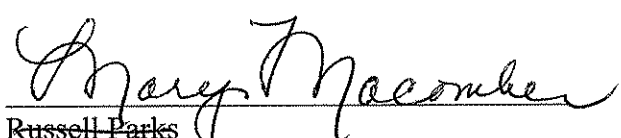
**Adjournment**

There being no further business,

On MOTION by Ms. Macomber seconded by Mr. Parks with all in favor the meeting was adjourned.

  
Philip Sobers  
Secretary

Vice

  
Russell Parks  
President