

**MINUTES  
NORTH PALM BEACH HEIGHTS  
WATER CONTROL DISTRICT**

**September 23, 2013 at 7:00 p.m.**

**Jupiter Library  
705 Military Trail  
Jupiter, FL 33458**

The Monthly Business Meeting of the North Palm Beach Heights Water Control District (“District”), having been duly advertised and posted, was held on September 23, 2013 at the Jupiter Library, 705 Military Trail, Jupiter, FL 33458. The meeting was called to order at 7:04 p.m., (the Pledge of Allegiance was not read as there was no flag present), and roll call was taken:

**Present**

Jeff Iravani  
Wally Baldwin  
Lee Hintemeyer  
Lynn McCullough  
Brett Carpenter

**Reading and Approval of the Minutes**

Mr. McCullough entertained a motion to accept the minutes as written for May 23, 2013. Mr. Hintemeyer made the motion and Mr. McCullough seconded and the motion carried and the minutes were approved.

**Report by Mr. Baldwin, District Attorney:**

1. Mr. Baldwin circulated to the Board Members a working draft of the proposed By-Laws regarding rules governing District Board meetings. A final draft can be submitted for Board consideration at a subsequent meeting. Mr. Baldwin will e-mail it again. The public is allowed to speak at meetings and be heard on any matters. This has now been codified as a new statute, Florida Statute § 286.0114, Public Meetings, Reasonable Opportunity to be Heard, Attorney’s Fees. Mr. Baldwin suggests that before the Board takes a vote at any meeting where the public is in attendance, that the public be allowed to comment prior to the vote, rather than have the Board vote and then at the end of the meeting, the public is heard. Mr. Baldwin recommends that it is addressed in the By-Laws and

they will be in compliance. The Statute has several elements to it. It specifically provides that:

Members of the public shall be given a reasonable opportunity to be heard on a proposition before a Board or commission. The opportunity to be heard need not occur at the same meeting at which the Board commission takes official action on the proposition. The opportunity occurs at a meeting that is during the decision-making process and is within a reasonable proximity in time before the meeting at which the Board takes the official action. This does not prohibit a Board or commission from maintaining orderly conduct or proper decorum in a public meeting. The opportunity to be heard is subject to rules or policies adopted by the Board or commission.

The Board can govern how its meetings are run but what it can't do is prevent the public from being heard, which obviously not an issue for this Board. Mr. Baldwin recommends that the public be given an opportunity to speak on an issue pending before the Board prior to the Board voting on it. If it is adoption of the budget, the floor should be open to the public to speak before the budget is adopted and address questions and/or objections. Mr. Baldwin will submit a final draft of the By-Laws for the Board's review prior to the next meeting.

2. The District Lease for the District Office is with Lake Park Portfolio, LLC. They sold the building and they assigned the lease to a new landlord Kelsey Industrial, LLC. The current lease expires October 31, 2013 in case the Board wishes to terminate the lease due to their concerns of the age of the office and the location.
3. An Attorney Opinion Letter has been issued to the National Resources Conservation Service of the U.S. Dep't of Agriculture. This is for a project that the District is engaged in. The Dep't wanted assurances that the District has adequate real property rights and interest to enter into the project agreement. In Mr. Baldwin's opinion, the District does have the right to do it. The District Engineer will provide specifics of the project. The Supervisors had some questions about this and Mr. Baldwin clarified.

**Report by Jeff Irvani, District Engineer:**

1. The fourth canal cleaning started last week. It should be done in a couple of months.
2. Vegetation and trees were removed at NC-3, NC-4, and NC-6.

3. As the Board is aware, the District removed five trees behind 138 Cypress Cove out of Stone Briar per a resident's request. The resident had an encroachment on the easement and Mr. Iravani met with them in February. They issued permits but it was low priority. The resident called Mr. Iravani and asked about the tree removal. He had an issue with a coral snake and one ended up in his pool. He is afraid for his kids so it became high priority. Those trees were removed. The resident asked about the pine trees at the top of the bank and Mr. Iravani advised they were not going to remove those as they were not blocking access. The resident stated that there is where the coral snakes are nesting, etc. Mr. Iravani received bid from Trees Only for \$2975.00 for the 9-10 at the top of the bank. Jim Karetsky, Councilman asked Mr. Iravani what was going to be removed. Mr. Iravani advised about the 9-10 trees. After that, the plan is to remove trees that are at the edge of the water or really close to it, approximately 6. The District does not plan on removing any more trees behind Stone Briar at this time. Mr. Iravani recommends that the Board remove these trees as the resident has safety concerns. The inspector had almost stepped on a coral snake and the tree crew actually killed one so the resident is not exaggerating.
4. The canal bank behind three lots was restored on NC-3.
5. The canal bank behind four lots was restored on NC-4.
6. Mr. Iravani will send documentation to the Board regarding Palm Beach County Local Mitigation Strategies for their consideration at the next meeting.
7. Mr. Iravani had a meeting several months ago with the Town about them installing a skimmer behind the control structure. Up to 95, the Town did have a skimmer, which is basically a two-inch PVC going across. It just picked up floating debris before it enters the canal, which doesn't affect the drainage. Every once in a while it gets caught so the structure stays open so the water gets below where it should be. The Town has well fields, which shouldn't get below where they should be. It is an easy fix to open up the structure, close it, the stuff goes out. The Town sent over plans for review and Mr. Iravani asked for some notes in there. Brad Wagner sent an application and a plan. Mr. Iravani reviewed the plan and the proposed skimmers are pretty big; 14 inch deep, five inch angle, which creates quite a bit of obstruction. The Town is reviewing it. Mr. Iravani is concerned about it and will bring it up at the next Board meeting.
8. The District obtained a grant from NRCS for \$175,000 to restore NC-5. Mr. Iravani brought the bid documents. In addition to widening the canal, they will be putting in an enforcement mat, as well as rip rap at the water's

edge and to a foot below the water to protect the bottom. The low bid came from Murray Logan, local contractor, \$174,950. Mr. Iravani reduced the riprap. Four requests for bids were sent out and the District received two. Southeastern Excavating's bid was \$255,000 and Murray Logan was \$196,000, which was reduced. At the same time, the bid documents were prepared for the west side. Only received one bid back from \$100,000 from Southeastern Excavating. Mr. Iravani will discuss the project with Murray Logan and see if they will make a deal if they are hired for both east and west side projects. Mr. Carpenter asked about the grant. Mr. Iravani stated the NRCS pays 75% plus the administrative fees.

9. There are two sand cement endwalls coming from the pipes from Leslie Street. They are both badly eroded. The District sent notice to the Town as it is their responsibility to fix as it is their pipe. The Town has agreed to enter a contractor with May Logan and pay him directly. It is \$9,000 for two sand cement end walls rip rap that goes all the way to the bottom of the canal. The discharge will not cause erosion like it is doing now.
10. Mr. Iravani sent out a bid for widening of the NC-6 behind Indian Creek. Some bids came back. The lowest one was \$110,000 but Mr. Iravani needs to revise the plan though because the quantities are off. It is too expensive to put riprap under the water so they are going to grade and put sod in.

**Items by the Board Members:**

1. Mr. Carpenter met with Jim Kuretsky, Jupiter Town Counselor, who is also an FPL employee. He wants to know the overall plan was to dispel the perception that the District keeps coming back. From Mr. Hintemeyer's understanding, one resident asked for something behind Stone Briar, where more and more work is being done. The resident who is concerned about the preserve is the one who calls the Town every time the District is around there. Mr. McCullough advised that we need a much defined clarified job scope about what the District is doing. Mr. Carpenter suggested a few photographs in case there are further disagreements with what is supposed to be done. Mr. McCullough stated that the Town wants to know how much longer is this going to go on, what is the plan for doing this. Right now the plan is to take about 10 trees from the last resident and the roots tear up the canal bank and then we have a bigger washout that has to be repaired, as well as cutting the tree out of the canal that could block and back up. Mr. Iravani stated that in no way this precludes or takes away any right from the District to go back two years down the road and cut some more trees. That is the District authority; everyone needs to

know that very clearly. There are no plans to do anything further unless conditions change.

Mr. Carpenter has been authorized by the Board to speak on the Board's behalf in relationship to the Board's work for removing trees from its easement behind the Stone Briar community and will be working with District Engineer Mr. Iravani to document in writing the District's process for removing such vegetation and what plans the District has in the near future and what the District would do in an emergency situation. Mr. Carpenter and Mr. Iravani will report back to the Board at the November landowner meeting for final review by the Board in its entirety.

Mr. McCullough suggested that the Town take a look at the lack of communication within the Stone Briar community, which is a large part of the problem. The sound end wanted something. The residents at the north end didn't know about it and got upset. Mr. McCullough stated that it is not the District's responsibility to notify each individual resident of what is going on.

Mr. Carpenter mentioned that Mr. Kuretsky received documentation from a resident that appeared to challenge one of the easements to us. He had read it, he is just trying to understand it and finding out about it. Mr. Iravani explained that easement is not part of the resident's property. Mr. Hintemeyer suggested before anything goes in writing the numbers should be accurate. Mr. Carpenter said he would feel more comfortable doing it on site. This was just a reference, an approximation. He would be invited to an on-site inspection. The final count will be derived.

#### **Miscellaneous Items by the Chairman:**

1. In prior meetings, the Board discussed adoption of a water control plan and public facilities report. Mr. Baldwin stated that the Board will probably readopt the new water control that the District Engineer prepared. He has been unable to locate the original water control plan. It was in the late 1970s. Mr. Baldwin will review the water control plan again, and go through the notice requirements for the January Board meeting.
2. Mr. McCullough asked Mr. Iravani when he would have something for the Board to look at for the west side of the canal repair so we can get a package price on both sides. Mr. Iravani spoke with the low bidder back in April about the west side. Mr. Iravani is ready to move on the east side and if the Board wishes to give a budget of \$87,000, they can both get done at the same time. Mr. McCullough wants the work to start as soon

as the rainy season stops. He doesn't want lack of contract or bid slowing it down. When that work is done, he wants to take a look at the outfall canal and get that ready to roll after the first of the year as well. Mr. Iravani suggested that because of the deadline of January, the Board should motion that now.

Mr. McCullough made a motion to give the District Engineer the authority to come up with a contract to complete the canal restoration work between Marion and NC-4, not to exceed the price of \$90,000, which will allow the District to complete the south side of Leslie Street from end to end, with the exception of the 300 feet that was already restored earlier this year and the north side as well and the motion carries.

3. Mr. McCullough received a letter from David Brown on August 20, 2013 requesting that the District waive the permit fee of \$1,000.00. This is for the installation of debris collection beam that the District Engineer spoke about earlier. Mr. McCullough has no problem with it.

Mr. Carpenter made a motion to waive the \$1000 permit fee for the refuse project and the motion carries.

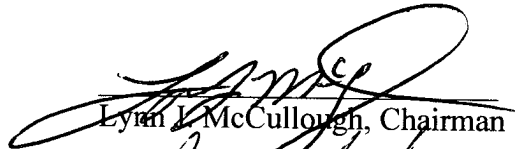
4. Mr. McCullough advised they started preparing for the audit. He received package from Nolan, Holt & Miner. Kara Peterson is the auditor. The contract is not exceed \$11,500, which is what it has been over the years.

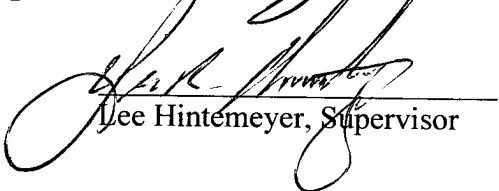
Mr. Hintemeyer made a motion to approve the engagement of Nolan, Holt & Miner for the District's annual audit with the not to exceed price of \$11,500, and the motion carries.

5. There was discussion about the District going paperless. Mr. McCullough advised that Dary has only been to work twice this year at the District office. She went back to school and is graduating at the end of the month. She will be able to come back and assist probably in November.
6. Mr. Baldwin strongly recommends that the Supervisors have independent e-mail addresses for each personal residence or work computers. Mr. Baldwin he understands that it is an inconvenience to log in to a separate e-mail but for purposes of segregating District e-mails. Mr. Baldwin stated that as long as all communication is coming from an independent email address. The District owns one I-pad. One reason is public records requests and all these e-mails from Board members are technically public records. Mr. Baldwin wanted to remind everyone about the Sunshine Law with e-mails. There is a lot of communication going on with the Town of Jupiter. The sunshine law applies: Any gathering of two or more members of the same Board to discuss some matters of the Board, and the Board members are commenting, is a violation of Sunshine Law. Even

A motion was made to adjourn the meeting at 8:22 p.m. and it carried unanimously.

Approved:

  
Lynn J. McCullough, Chairman

  
Lee Hintemeyer, Supervisor

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Brett Carpenter, Supervisor