

**BOARD OF SUPERVISORS MONTHLY MEETING
OF THE SAN CARLOS ESTATES WATER CONTROL DISTRICT AGENDA
TUESDAY, AUGUST 16, 2022 6:00 P.M.**

BONITA SPRINGS CHAMBER OF COMMERCE, 25071 CHAMBER OF COMMERCE DR, BONITA SPRINGS FL 34135

1. **Call Meeting to Order:** Ben Bogacz called the meeting to Order at 6 PM.
2. **Roll Call of the Board of Officers:** Present are Supervisors Ben Bogacz (Ben); Jim Bradford (Jim); Jennifer Finazzo (Jennifer); Attorney Richard Pringle (Richard); Engineer Bill Morris (Bill); and Sec/Treas Chris Lawson (Chris) and 23 guests.
3. **Receive Engineer's Report on District Works:**
 - There are 65 open driveway permits, 3 new permit applications and 3 closed permits.

Bill told the Board that they had completed the water quality testing and would be pulling out the monitors from the canals.

4. **Chairs Report:** Ben reported that he would not be at the Annual Landowner Meeting and the Monthly Meeting on 09/17/2002. He also reported that he would not be running for re-election as a Board Supervisor.
5. **Treasurer's Report:** Bills were presented for payment. The budget variance was presented and discussed. There were questions from the guests regarding the variance with the current budget. Another question raised was about the costs following Hurricane Irma. The current income and expense, check detail, and income and expense year-to-date comparison reports were presented for the month of August.

The Stillwell guardrail repair is complete, and the District has been repaid for the repair from State Farm.

6. **Attorney's Report:** Comments will be incorporated into discussion as the topic is brought up. He commented that the assessment resolution is one of the resolutions to consider on the agenda for the two assessment rates. Richard did interact with the attorney for the landowner at 8991 Strike Lane after sending the letter the Board directed. Some information was sent to the Engineer following the letter
7. **Comments from Guests and Public Input:**

Greg Dewitt questioned why the Resolutions were not on the website for the assessments. Chris replied that the budget discussion information was on the website for the public review but the resolution for the assessment would not be available until approved. Richard also indicated that at one time all of documentation for the meeting had to be available on the website, but the law changed several years ago and now only what is required of the District is the Agenda. Someone asked what statute where the law change occurred.

A question was asked what the purpose of public input is. Richard explained.

Discussion followed regarding the District website and the need for improvement. One guest commented that the website should be redesigned for ease of public use.

David Nadig made comments regarding the water flow of the canals. He concluded that the spillway box at Strike and Tuck controls the water out of the filtration ponds and into the canal at Tuck. How is the decision made to open the spillway. Ben stated that the company that manages the filter swamp manages that spillway. He expressed concerns over the overall management of that spillway. Discussion continued back and forth. Ben said there is a purpose to the process and a balance for the success of the water control plan. Jim added some relative comments and indicated that a partnership with the Board and community could save money in the long run.

Another guest suggested that the Board review the Statutes and determine if there is a need for an ecologist to do the job that is being done. Richard stated that oftentimes that there is a permit requirement that is connected to the services the ecologist provides which would explain the lock on the gate and that they must sign the certification that they are performing the job required. If that is not a requirement, then what has been discussed about what the residents are able to do could work. Jim stated that this is a topic for future discussion for discovery. Bill offered some historical reference to the filter swamp. Bill said that it is not a specific requirement that is written into the permit. There are some things that were agreed to with SFWMD as part of the grant approval and does not know what obligations still exists currently. It serves a function. David agreed that the filter ponds serve the purpose of the filter pond. His question is whether the interest of the filter ponds greater than the interest of the SCEWCD. He would like to keep the issue open and, on the agenda, because he finds all these comments dismissive and is there actually a statute that requires the services of an ecologist.

Bill stated that this spillway is not the only the drain in the District and that the spillway in question handles largely a segment of Strike Lane. Everything from a certain point on Strike Lane drains west and then out the control structure in question. Brown Collins has overseen that structure since it was put in place. But a process would need to undertake to ensure that the District is running afoul of an agreement or permit requirement that was used to establish it. Normally there are different hydraulic parameters that are designed into a control structure. The sluice gate used is not a standard piece of equipment and there are more sophisticated methods that are available that has a cost associated with them that could be used. There are several options available. Jennifer suggested that it be kept on the agenda. A guest commented read a portion of the water control plan and said that what may have been effective in 2007 may not be applicable now and it is up to the Board to decide.

Albert Bradford stated that in an emergency, our system worked, and they do not believe that anyone's home flooded. Bill said that in that year the area had two 100-year storm events within three weeks of each other.

David Nadig continued to press his point that the water is going towards Strike to the filter swamps and controlled by the spillway.

At the conclusion of the old, new, and unfinished business, John Cellucci indicated that he will be interested in being nominated for the open board position and introduced himself and his credentials to the meeting audience. A general question and answer session occurred between himself and the audience. His information has been uploaded to the website under the Annual Landowner Meeting tab.

8. Old new and unfinished Business:

- R.M.E.C., LLC Contract and fee negotiation team: In the June meeting, the Board directed Richard Pringle to prepare a professional services agreement between SCEWCD and R.M.E.C., LLC. The negotiation team consisted of Jim Bradford, Richard Pringle and Ron Edenfield who met and arrived at terms for the professional services agreement/contract. This was disseminated to the Board for approval. After discussion on the subject matter, Jim declared that R.M.E.C., LLC met all the requirements of the RFQ Proposal. Richard explained that the Agreement includes an indemnification provision that authorizes the termination upon minimal notice without cause, indemnification provisions, required insurance (liability and property casualty insurance), automobile liability, invoices, scope of services that was generally written for the agreement that describes the general scope of services but if there are larger projects needed to be performed, it would require approval by the Board, our permit compliance with state and federal agencies, the use and connection permits currently handled by the current engineer, etc. Ben questioned the need for the change of the engineer. Further discussion on the subject matter continued between the Board and public. Jennifer asked Bill Morris why his firm did not submit a RFQ proposal. Bill explained that he felt that his firm's services were no longer welcome by the Board and did not pursue the matter. Additional discussion occurred. After the motion passed to hire R.M.E.C., LLC as the new engineer of record,
- 8991 Strike Ln - Status and clarification of District ROW: Richard was contacted by the attorney for the property owner. He discussed the earlier requests by the property owner. There was documentation submitted for the engineer's review which was related to the entrance way. The property owner commented that he has a letter of approval for the gate which was needed for the permit. The gate was permitted, and that permit is closed and completed. The landowner explained what has transpired in the interim between now and the original request. FPL would get a drawing and then the drawing would be forwarded to the engineer to be told that the drawing was insufficient. So back to the drawing board. The property owner has in the interim contacted a company to drill the underground which was five months out. They came out to perform the job and Jim contacted Morris Depew and was told that everything was in order. Later he was told that it was not in approved and there was no 48-hour notice. But if everything was in order, then he would not stop a project for lack of a 48-hour notice. Bill indicated that what they received was a schematic that FPL provided that had no relative location for the improvement relative to any property line, easement line, etc. It was a line on a piece of property that indicated a wiring specification and a link. That was what we were being asked to approve. The property owner said that he got a letter saying nothing been done but there has been activity. Richard stated that nothing has been with regard to recording of an easement across your property. Ben asked where are we at? The sleeve is in place but that is it. Jim asked what engineering document has been presented to the Board to be approved? Bill understood that the Board had approved that 5' of the eastern side of the easement could be used for the installation of the conduit. Morris Depew specified that the pole boxes which have an above ground access and has potential for damage if maintenance conducted in the easement that they should be installed outside the District ROW. The property owner indicated that now no pole boxes are now necessary.

Jim asked about the fence. Bill said that the fence was to be installed on the property owner's property. Jim said that the fence is on the District property. Judy Tapply said that the engineer, attorney, and property owner worked out the details for the fence as it was a separate issue. She further said as to the underground utility, the Board approved it subject to approval of the plans being

submitted to the Engineer so that the attorney could record it. The property owner said that the plans for the fence was approved, and the drawings reflected the fence being all the way over to the edge which included the District ROW. Bill stated that he would not arbitrarily approve any improvement that extended into the District ROW without the Board approval. He further stated that he would go back to his office and verify the information. Ben and Jim both said they do not recall seeing any documents for the fence. The landowner agreed to get the necessary information to the appropriate personnel. The discussion has been continued to the next Board meeting.

- Manager Selection: No action taken and continued to the September 2022 meeting.
- Secretary/Treasurer Selection: No action taken and continued to the September 2022 meeting.
- Sewerviewer Proposal: No action taken and continued to the September 2022 meeting.
- Bank of America State Credit Program Adoption: One of the comments from the audit included a recommendation that the Board obtain a credit card for reimbursables to minimize potential fraud. Chris went to Bank of America to see if they offered a program that the District could participate in. It is known as the State of Florida Purchasing Card Program and an application was sent. To participate in the program requires Board approval.
- Chris presented and discussed the documents prepared for the budget discussion with the Board and answered questions posed by the Board and guests. Much discussion was held between the Board and guests on the line items for projects the Board feels is necessary in the District for the upcoming fiscal year. There was much discussion regarding the additional maintenance of the perimeter roads and the costs/benefits/appropriateness of the work. Jim talked about the perimeter canal repairs that were needed and wanted to include \$50,000 in the budget for the said repairs. Increases were included in the budget for drainage and swale mowing considering current economic conditions and that we wanted to be prepared for contract increases. There was no bidding for any of the contracts for the upcoming fiscal year. Some guests commented that the Board should get bids before the budget discussions to be better prepared. Richard provided some additional comments and explanations for everyone's benefit. With all the building in the community, there may be additional repair costs because of the deterioration of the District improvements. A guest commented that he would like to see the Board in the future prepare a 5-year plan for the road improvements because the homeowners are not necessarily going to see their taxes going down when the loan is paid off. Judy Tapply questioned the ability of the District to pay for the additional mowing of the perimeter road. Richard explained he believes based on his research and readings that there is latitude in the law that would allow the activity. The Attorney General opinions that he has read related to water control districts, the Attorney General's office tries to say that it is within the District's authority if it is somehow related to the maintenance of the District's ROW. What he has seen is a broad definition of what is authorized to maintain those ROW's and the use of the said ROW's. If there is legal authority, then it is up to the Board's discretion. Their discretion is to act in the best interest of the District. There was a discussion between the Board and public about the perimeter roads and use. Richard stated that he wrote a letter to the landowners to accompany the annual meeting notice to explain the ROW to everyone because this has been a topic of conversation for much of the year.

The proposed 2022-2023 annual general assessment is \$547.03 per acre and represents a 20.05% increase from the 2021-2022 budget. The actual budget will be approved at the next meeting.

For the CIP PH I budget, it was agreed to maintain the assessment as in prior years which would be sufficient to meet the contractual loan agreement and with the carryforward balance in the account allow for a \$100,000 principal paydown. This should enable the loan to be paid off in 2024. The scheduled loan maturity date is 08/2025.

- The Annual Landowner's Meeting is scheduled for 09/17/2022 at 10:00 AM at the Bonita Springs Chamber Commerce office at 25071 Chamber of Commerce Drive, Bonita Springs, FL, 34135 at 10:00 A.M. An annual meeting mailing will be sent which will include the notice of the Annual Landowner's Meeting, letter prepared by Richard explaining the ROW, Meeting Notices, and Proxy.
- The regular monthly meeting will change from 09/20/2022 to 09/17/2022 at 10:05 A.M. following the Annual Landowner's Meeting. Richard explained that the Board needs to authorize him to prepare a notice to change the meeting date.

Motions approved by Board noted in old, new, and unfinished business:

- Jim made the motion to approve R.M.E.C., LLC as the Engineer of Record for the District replacing Morris Depew Associates. Morris Depew would complete and file the annual NPDES permit due in October. Jennifer seconded the motion. Ben declined the motion. Motion passed 2-1.
- Ben made the motion to continue the discussion and approval for the underground utility improvement in the District ROW to the next meeting. Jim seconded. Motion passed 3-0.
- Ben made the motion to table the Manager Selection discussion to the September 2022 meeting. Jim seconded the motion. Motion passed 3-0.
- Ben made the motion to table the Secretary/Treasurer discussion to the September 2022 meeting. Jennifer seconded the motion. Motion passed 3-0.
- Jim made the motion to table the Sewerviewer proposal discussion to the September 2022 meeting. Ben seconded the motion. Motion passed 3-0.
- Ben made the motion to approve participation in the State of Florida Purchasing Card Program. Jennifer seconded. Motion passed 3-0.
- Ben made the motion to approve the 2022-2023 CIP PH I assessment to the same amount as on the 2021-2022 budget for an annual total of \$562,325 which would be assessed to the properties who have not paid their assessment in full and would allow a \$100,000 principal paydown in addition to the required payments set forth by the Promissory Note. Jim seconded the motion. The motion passed 3-0.
- Ben made the motion to set the General Maintenance assessment for the 2022-2023 fiscal year budget to \$547.03 per acre. Jim seconded the motion. The motion passed 3-0.
- Ben made the motion to set the date and time for the Annual Landowner Meeting to September 17, 2022 at 10:00 AM to be held at the Bonita Springs Chamber of Commerce Office. Jennifer seconded the motion. Motion passed 3-0.
- Ben made the motion to change the September monthly meeting from September 20, 2022 to September 17, 2022 at 10:05 AM to be held following the Annual Landowner Meeting at the Bonita Springs Chamber of Commerce Office and to authorize Richard to file a notice to change the meeting date. Jim seconded the motion. Motion passed 3-0.

9. **Approve the June 27, 2022 Meeting Minutes:** Ben made the motion to approve the June 27, 2022 meeting minutes. Jim seconded the motion. Motion passed 3-0.

10. **Approve June 30, 2022 Bank Statements; June 30, 2022 Financial Reports; Payment of June 2022 Bills; Approve June 2022 Financial Reports; July 31, 2022 Bank Statements; Payment of July 2022 Bills; Approve July 2022 Financial Reports; August 2022 Bills; and August 2022 Financial Reports presented:** Ben made a Motion and seconded by Jennifer to approve the June 30, 2022 Bank Statements; June 30, 2022 Financial Reports; Payment of June 2022 Bills; Approval of June 2022 Financial Reports; July 31, 2022 Bank Statements; Payment of July 2022 Bills; Approval of July 2022 Financial Reports; August 2022 Bills; and August 2022 Financial Reports presented . Motion passed 3-0.

11. **Adjournment:** A Motion was made by Ben and seconded by Jennifer to adjourn the monthly meeting. Motion passed 3-0. Meeting adjourned at 9:51 pm.