

**MINUTES OF A BOARD OF SUPERVISORS MEETING  
NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT 03/23/11**

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Pursuant to the foregoing Notice, the Board of Supervisors of Northern Palm Beach County Improvement District met at 8:02 a.m. on March 23, 2011 in the Administrative Building and Emergency Operations Center, 359 Hiatt Drive, Palm Beach Gardens, Florida.

**1. ROLL CALL**

There were present Board President Ronald M. Ash and Supervisors Adrian M. Salee, Matthew J. Boykin, and L. Marc Cohn and District Engineer Robert W. Lawson and General Counsel Kenneth W. Edwards of Caldwell Pacetti, et al.

Supervisor Michael O'Rourke was not present at roll call but was expected to arrive shortly.

Also present were Finance Director Katie Brunk; Executive Assistant Susan Scheff; Director of Operations Kenneth Roundtree; Construction Manager Tim Helms; Budget & Assessment Roll Manager Laura Ham; Engineering Administrative Assistant JoAnn Osborne; Amy Eason of AECOM; Tad Rowe of Simmons & White; Jonathan Ricketts of J.T. Ricketts, Inc.; Nader Salour of Abacoa Development Company; Alan Wertepny of Mock Roos; Lara Donlon of Torcivia & Associates; Ray Spear of Grassroots; and Thomas Oddo of PGA National, Villas of Burwick and Thurston.

**2. ESTABLISHMENT OF A QUORUM**

Mr. Ash announced that a quorum was present and that it was in order to consider any business to properly come before the Board.

**3. ADDITIONS OR DELETIONS TO THE AGENDA**

Mr. Edwards reported that no additions or deletions to the Agenda were necessary.

**4. APPROVAL OF MINUTES**

A **motion** was made by Mr. Salee, seconded by Mr. Cohn and unanimously passed approving the Minutes of the February 23, 2011 Regular Meeting.

**5. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

This item was passed over and brought up at the end of the meeting.

**6. CONSENT AGENDA**

A **motion** was made by Mr. Salee, seconded by Mr. Boykin and unanimously passed approving the following Consent Agenda General Items:

- Unit No. 18     Ibis Golf & Country Club  
                          Consider Approval of Purchase Order for Emergency Generator Roof  
                          Consider Approval of Purchase Order for East Pump Station Roof Replacement
  
- General  
                          Consider Renewal of Geographic Information System Contract  
                          Consider Surplus Vehicle Authorization

copies of which are contained in Northern files.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin and unanimously passed approving the following Consent Agenda payments:

<b>Approved Disbursements from March 23, 2011 Board Meeting</b>					
			<b>NOTE</b>	<b>L/O</b>	
	<b>BOND</b>	<b>EIPC</b>	<b>Proceeds</b>	<b>Funding</b>	<b>TOTAL</b>
<b>Unit No. 2C – Scripps II/Briger Tract</b>			<b>1,752.50</b>		<b>1,752.50</b>
<b>Unit No. 9B – Abacoa II</b>		<b>1,575.00</b>			<b>1,575.00</b>
<b>Unit No. 19 – Regional Center</b>				<b>24,898.12</b>	<b>24,898.12</b>
<b>Unit No. 21 – Old Marsh</b>		<b>33,322.50</b>			<b>33,322.50</b>
<b>Unit No. 51 – Frenchman’s Harbor</b>		<b>2,561.00</b>			<b>2,561.00</b>
<b>General</b>		<b>11,835.00</b>			<b>11,835.00</b>
		<b>49,293.50</b>	<b>1,752.50</b>	<b>24,898.12</b>	<b>75,944.12</b>

copies of which are contained in Northern files.

**7. UNIT OF DEVELOPMENT NO. 2C–SCRIPPS II/BRIGER**

Mr. Lawson reported that he attended a meeting earlier in the week with the City of Palm Beach Gardens, Palm Beach County, Northern’s Consultants and Representatives from Briger with regard to the roadway design. He also reported that the County is supportive of the Heights Boulevard turn lane issue. Mr. Lawson noted that the next working group meeting is scheduled for March 24, 2011 in Northern’s office. The first invoice for work performed by Michael B. Schorah has been received and will be presented for approval next month. Mr. Lawson also noted that the environmentalists have been relocated from the Briger property.

**8. UNIT OF DEVELOPMENT NO. 9A & 9B –ABACOA I AND II**

Mr. Edwards reviewed the history of this project and explained that implementation of the project has been concluded.

Mr. Lawson explained that the amendments to the Plan of Improvements for each of these Units were presented and accepted by the Board at its February 23, 2011 meeting, and final certification of each of the Plans of Improvements is included in the Board’s materials.

Mr. Edwards stated that he has prepared an Acknowledgement of Completion and Release for each of the Units with an Index of the corresponding Developer’s Agreements which are being determined to be complete.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin and unanimously passed approving the Acknowledgement of Completion and Release for Unit 9A and Unit 9B as presented.

**9. UNIT OF DEVELOPMENT NO. 19A–IRRIGATION**

Mr. Edwards explained that this is the area around The Gardens Mall, but excludes the Mall. This Unit was created to develop an irrigation system. He stated that the Board previously approved a Consent to Assignment of the Irrigation Easement Agreement several months ago, when an apartment complex in the area

was bring sold to a third party, but that transaction did not close. This Consent to Assignment is for a new prospective purchaser of the Mira Flores property.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin and unanimously passed approving the Consent to Assignment of the Irrigation Easement Agreement.

**10. UNIT OF DEVELOPMENT NO. 21–OLD MARSH**

Mr. Lawson reported that the bridge construction project is 99% complete, the rip-rap is in place and hazard signage has been posted. He presented accompanying photos and explained that final inspection was scheduled for the next day. Construction Technology performed the work and Northern has been very pleased with the result.

**11. UNIT OF DEVELOPMENT NO. 43 – MIRASOL**

Mr. Lawson reported that Northern received a copy of a lake bank report that one of the Property Owners’ Associations (POA) within this Unit had commissioned. This is part of an ongoing analysis with regard to the lake slopes. He explained that the report is being reviewed and that Mr. Bardin has been in contact with a representative of the POA.

Mr. Edwards stated that a copy of the report has been provided to Northern’s litigation attorney who has been involved with these Mirasol matters, and at this point Northern will wait and see what happens. This issue is currently between the POA and Taylor Morrison and Northern will not get involved unless asked.

This item was presented for information only and no Board action is required at this time.

**Mr. O’Rourke joined the meeting at this time.**

**12. GENERAL**

- Mr. Roundtree presented two Awards from the Palm Beach County Safety Council to Board President Ronald M. Ash. Northern was awarded an Award of Excellence for Worker Safety and an Award of Merit for

Vehicle Safety at the Safety Council's Annual Safety Awards Luncheon. Mr. Roundtree recognized all District Staff and the Board for their efforts and gave special recognition to the District's Safety Committee.

- Mr. Edwards reviewed the basic stages of the Landowners Agreement development process once a Unit of Development has been formed. He stated that Landowners Agreements can be very complex documents. To prepare the Agreement, Northern Staff and Consultants consult with the Developer and identify the steps of the development process. He explained that this Agreement sets forth details regarding the Plan of Improvements and financing of the Unit.

Mr. Edwards stated that earlier in the Board meeting, the Board released a developer from just such an Agreement because there are serious consequences if they don't satisfy the requirements of the Agreement. He explained that in his view this is probably the most important document in a Unit's development process.

Mr. Cohn asked if once a developer is released from a Landowners Agreement, is the High Level Maintenance Agreement still in effect. Mr. Edwards confirmed that they are separate documents and the High Level Maintenance Agreement would still be in effect.

### **13. MISCELLANEOUS REPORTS**

#### **A) ENGINEER**

- Mr. Lawson had nothing to report.

#### **B) ATTORNEY**

Mr. Edwards stated that the draft Interlocal Agreement form for the National Pollution Discharge Elimination System (NPDES) program was provided in the Board's materials. He explained that Northern enters into Interlocal Agreements with approximately 40 governmental entities and the document provided is the general agreement form that Northern will be entering into with most of the other governmental entities. He noted that Alan Wertepny is the engineer that administers the program for Northern as the Lead Permittee. These agreements set forth the obligations of the parties in satisfying the requirements of the Permit.

Mr. Edwards explained that Staff is asking for Board approval of the form of the Interlocal Agreement, since the individual Agreements themselves will go on the Consent Agenda for approval in the coming months.

A **motion** was made by Mr. Salee, seconded by Mr. Cohn and unanimously passed approving this form of the Interlocal Agreement for the National Pollution Discharge Elimination System.

Mr. Ash commended Alan Wertepny for his work on the program.

### **C) EXECUTIVE DIRECTOR**

Ms. Brunk presented the Community Information and Press Box Report.

## **14. COMMITTEE REPORTS**

### **• BUDGET & BANKING COMMITTEE**

Ms. Brunk reported that a Budget & Banking Meeting was held on March 9, 2011, and the following items were discussed:

#### **Annual Financial Report for the Year Ending September 30, 2010**

Ms. Brunk reported that the Committee received the Annual Financial Report for Fiscal Year Ending September 30, 2010. The Auditors, Marcum LLP presented an overview of the report and a separate report of “communication to those charged with governance”. She reported that the audit reflects an unqualified opinion as well as no adverse Management Letter comments and no adjusting journal entries. This is the seventh consecutive year Northern has received no adverse Management Letter comments.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin, and unanimously passed approving the Annual Financial Report for Fiscal Year Ending September 30, 2010.

#### **Review of Federal Emergency Management Agency (FEMA) Large Project Status**

Ms. Brunk reported that the Committee reviewed a summary spreadsheet listing the status of closeout for Northern’s large projects with FEMA for hurricanes Frances, Jeanne and Wilma. She stated that Northern Staff is working with representatives from FEMA and the Florida Division of Emergency Management to verify

the grant proceeds awarded to us. A total of fifteen out of eighteen large projects are officially closed. All large projects associated with Hurricane Wilma have been closed.

This item was presented for information only and no Board action was required.

- **LEGAL COMMITTEE**

Mr. Edwards reported that a Legal Committee Meeting was held on March 9, 2011, and the following items were discussed:

**Unit No. 20 – Juno Isles**  
**Discuss Property Appraisals**

Mr. Edwards explained that this item is for the three Juno Isles parcels that John Gary, the attorney for the landowners of the adjacent properties, requested be conveyed to them. He stated that the three parcels of property were previously determined as unnecessary to carry out the Plan of Improvements by the District Engineer, so Northern had the properties appraised by Mr. Robert Banting of Anderson & Carr, Inc.

Mr. Edwards explained that there are different appraisal methodologies and Mr. Banting, used the “over the fence” method which is the method he uses when conducting appraisals for the South Florida Water Management District.

Mr. Gary’s clients disagreed with the appraisal methodology used and hired another appraiser to review the report.

Mr. Edwards stated that the Committee determined, after much discussion, to offer the properties for sale for half of the appraised value in Mr. Banting’s report.

Mr. Salee explained his thoughts behind making this recommendation and noted that it should also prove helpful to adjacent landowners by not affecting their property assessment values too highly.

Mr. O’Rourke stated that he concurred with Mr. Salee’s recommendation.

Mr. Boykin asked if the motion being considered will only apply to these properties and Mr. Salee replied in the affirmative but stated that as these requests come up, Northern might want to adopt a policy.

Mr. Boykin stated that this process can be used to set a precedent, but he hesitates to create a policy as each case needs to be dealt with individually.

Mr. O'Rourke agreed and added that there may be factors that were considered in this landowner request that may be different in future situations.

Mr. Edwards stated that Mr. Bardin and Mr. Gary have had discussions that possibly only one of the three adjacent landowners (the landowner next to parcel 13) is interested in buying the parcel next to their property. He reported that a policy for handling these types of requests is in the process of being developed and will be presented to the Legal Committee for consideration.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin, and unanimously passed approving the properties be offered for sale individually for half of Mr. Banting's appraisal valuations.

**Unit No. 20 – Juno Isles**  
**Discuss Encroachment on Water Management Tracts**

Mr. Edwards reviewed the facilities owned by Northern within this Unit. He explained that Northern Staff provided a summary of the existing encroachments, many of which were constructed by the original developer and/or were constructed prior to the conveyance of the tract to Northern by Palm Beach County. After review, Staff determined that many Northern permits were applied for and issued for encroachments on the freshwater side but no permits were applied for to allow encroachments on the saltwater side. This research and discussion is in the initial stages and a draft recommendation to address the encroachments will go back to the Legal Committee at a later date.

This item was presented for information only and no Board action was required.

**Unit 34 – Hidden Key**  
**Consider Landowner Request for Conveyance of Quit Claim Deed**

Mr. Edwards explained that the Committee considered another request by the owner of Lot 20 for a Quit Claim Deed for an adjacent parcel of land totaling 1045 square feet. The Committee was informed that Mr.

Lawson had concluded that Northern owns no real estate interest in the subject parcel, and the Committee approved a recommendation to the Board of Supervisors to approve and execute the requested Quit Claim Deed.

Mr. Edwards stated that this item is very different from the one previously discussed for Unit 20 in that Northern has no real property interest and it will not impact its easements and Mr. O'Rourke, as a Legal Committee Member reiterated same.

A **motion** was made by Mr. Boykin, seconded by Mr. Salee, and unanimously passed granting a Quit Claim Deed to Rebecca Doane, owner of lot 20, as requested.

## **15. RECEIVE AND FILE**

The following items were presented to be received and filed:

- Assessment Collection Status as of March 16, 2011
- Northern's Monthly Financial Reports; and
- Proof of Publication of Meeting Notice

copies of which are contained in Northern's files.

**At this time, Mr. Ash called for any comments from the public for items not on the Agenda.**

Mr. Tom Oddo, President of the Board of the Villas of Burwick and Thurston of PGA National, approached the Board. He explained that he spoke to the Board last month with regard to his aerator issue and has not received a response.

Mr. Ash asked Mr. Roundtree if he was aware of the current status, and he stated that he believed it has been resolved, but he can look into it further. Mr. Roundtree explained that Staff works with the Property Owners Association (POA) and believes they had been dealing with this issue, but noted that he would contact them for more information.

Mr. Oddo spoke to the Board with regard to his ongoing struggles with the POA and one of his neighbors.

Mr. Roundtree stated that Northern accepts recommendations on aerator matters from the POA. Staff can make recommendations, but typically the Property Manager provides them to Northern Staff.

Mr. Salee clarified with Mr. Roundtree that Northern Staff does not take direction from particular individuals regarding aerators and Mr. Roundtree confirmed that Northern acts based on requests from the POA.

Mr. Roundtree offered to meet with Mr. Oddo and Ms. Levenstein, the PGA POA Property Manager, and hoped to find a resolution to his issue.

## **16. COMMENTS FROM THE BOARD**

Mr. Ash noted that the Board is saddened by recent events over the last week regarding the charges brought against Northern's Deputy Director. He thanked Ms. Brunk and Mr. Roundtree for stepping up in the absence of Northern's top two management personnel. Mr. Ash explained that he has asked Mr. Lawson to stop in one day a week or an equivalent number of hours to help with any engineering needs and expects that request to be confirmed at the Personnel Committee meeting.

He further explained that two Committee meetings will be taking place. A Personnel Committee meeting will be held today and a Legal Committee meeting will be held in the near future. He asked that the Legal Committee consider two items. The first item to be addressed is how long the Deputy Director's administrative leave should continue. The second item deals with what legal constraints, if any, apply to providing information to the Board when State Attorney subpoenas are received by the District's Staff.

He stated that one of the items that the Personnel Committee will address is appointing an Assistant Secretary.

Mr. Edwards explained that Mr. Beatty was currently the Assistant Secretary and suggested that the Board temporarily appoint another Assistant Secretary so that documents can be attested to in Mr. Bardin's absence.

He explained that Northern used to have two Assistant Secretaries and suggested Katie Brunk be appointed as an Assistant Secretary during the interim.

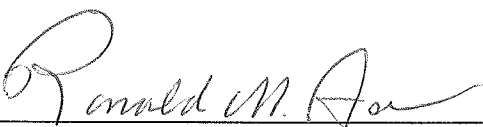
A **motion** was made by Mr. O'Rourke, seconded by Mr. Salee, and unanimously passed appointing Ms. Brunk as an Assistant Secretary on a temporary basis during the interim.


There was discussion that no motion was necessary to have Mr. Lawson provide in-house engineering services, as needed.

Mr. O'Rourke explained that he is a practicing trial defense attorney and has previously worked in the State Attorney's Office. He has read the materials in this case and reminded those in attendance that all citizens are presumed innocent until proven guilty and asked that they keep this in mind.

**17. ADJOURN**

There being no further business to come before the Board, the meeting was adjourned.

  
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President

  
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Secretary