

**MINUTES OF A BOARD OF SUPERVISORS MEETING
NORTHERN PALM BEACH COUNTY IMPROVEMENT DISTRICT 11/17/10**

Pursuant to the foregoing Notice, the Board of Supervisors of Northern Palm Beach County Improvement District met at approximately 8:10 a.m. on November 17, 2010 in the Administrative Building and Emergency Operations Center, 359 Hiatt Drive, Palm Beach Gardens, Florida.

1. ROLL CALL

There were present Board Vice-President Ronald M. Ash and Supervisors Matthew J. Boykin, Adrian M. Salee, Michael O'Rourke and L. Marc Cohn and; Executive Director and Secretary O'Neal Bardin, Jr., District Engineer Robert W. Lawson and General Counsel Kenneth W. Edwards of Caldwell Pacetti, et al.

Also present were Deputy Director C. Danvers Beatty; Finance Director Katie Brunk; Executive Assistant Susan Scheff; Director of Operations Kenneth Roundtree; Construction Manager Tim Helms; Budget & Assessment Roll Manager Laura Ham; Staff Biologist Sam Payson; Engineering Administrative Assistant JoAnn Osborne; Kim Leser of Arcadis; David Scott of Jordan, Jones & Goulding; Peter Craig of GCI; and Butch Beechler; Dave Nickerson and Lawrence Griffin for The Bears Club (Unit No. 44).

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

4. APPROVAL OF MINUTES

A **motion** was made by Mr. O'Rourke, seconded by Mr. Salee and unanimously passed approving the Minutes of the October 27, 2010 Regular Meeting.

5. NOMINATION AND ELECTION OF OFFICERS

Mr. Ash announced that it was in order to nominate and elect the officers to serve the Northern Board for the upcoming year.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin and unanimously passed nominating Mr. Ash as President.

A **motion** was made by Mr. Ash, seconded by Mr. O'Rourke and unanimously passed nominating Mr. Salee as Vice-President.

Mr. Bardin noted that as Executive Director he has held the Secretary and Treasurer positions for the past seven years, but there has been some recent discussion about whether or not a Board Member wants to hold these positions. A discussion followed with regard to the Secretary and Treasurer positions and the public records and bond requirements involved with these positions. There was also a discussion with regard to the Assistant Secretary position and whether or not an Assistant Treasurer position should be added.

A **motion** was made by Mr. Salee, seconded by Mr. Boykin and unanimously passed nominating Mr. Bardin as Secretary.

A **motion** was made by Mr. Boykin, seconded by Mr. Salee nominating Mr. Beatty as Assistant Secretary. Mr. O'Rourke asked that the **motion** be amended to include the Assistant Treasurer position. As that position was not yet created, a **motion** was made by Mr. O'Rourke, seconded by Mr. Salee and unanimously passed adding Assistant Treasurer to the Assistant Secretary position. Mr. Boykin and Mr. Salee modified their **motion** nominating Mr. Beatty as Assistant Secretary/Assistant Treasurer and the **motion** passed unanimously.

A **motion** was made by Mr. Boykin, seconded by Mr. Salee and unanimously passed nominating Mr. Bardin as Treasurer.

6. CONSIDER APPOINTMENTS

Mr. Ash reported that it was in order to consider the Committee appointments, Intergovernmental Representatives and miscellaneous appointments at this time.

Mr. Salee asked Mr. Bardin which Committees are the most active. Mr. Bardin explained that Budget & Banking and Engineering Review Committee are the most active. He also noted the Public Relations Committee was needed to establish a marketing plan, but it is no longer active and the Board may want to consider dissolution of that Committee.

Mr. Ash expressed his desire to leave the Committee structure intact and the remainder of the Board concurred.

A. COMMITTEE APPOINTMENTS

The following Committee appointments were discussed and agreed upon by Board consensus:

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| <p>1. Legal Committee:
Adrian M. Salee
Michael O'Rourke</p> <p>2. Debt Finance Committee:
Matthew J. Boykin
L. Marc Cohn
John Green</p> <p>3. Budget, Banking and Auditor Review Committee:
Matthew J. Boykin
L. Marc Cohn
Michael O'Rourke</p> <p>4. Personnel Committee:
Ronald M. Ash
Matthew J. Boykin</p> <p>5. Engineering Review Committee:
Adrian M. Salee
Ronald M. Ash</p> | <p>6. Public Relations Committee:
Adrian M. Salee
Matthew J. Boykin</p> <p>7. Appointment Committee:
Ronald M. Ash
Adrian M. Salee
Matthew J. Boykin (Alternate No. 1)
L. Marc Cohn (Alternate No. 2)</p> <p>8. Legislative and Citizen Review Committee:
Ronald M. Ash
Adrian M. Salee
Michael O'Rourke
Pat Rooney
Eric Jablin
Nader Salour
Steven Parsons
R. Marshall Jones</p> |
|---|--|

The Board directed Mr. Bardin to contact Pat Rooney, Carl Domino's successor, to ask if he would like to serve on the Legislative and Citizen Review Committee. He was also directed to contact the constituent members of this Committee to inquire if they wish to continue to serve.

B. INTERGOVERNMENTAL REPRESENTATIVES AND MISCELLANEOUS APPOINTMENTS

The following Intergovernmental Representatives and Miscellaneous Appointments were discussed and agreed upon by Board consensus:

- A. Loxahatchee Council of Governments:**
O'Neal Bardin, Jr.
Matthew Boykin- alternate
- B. Loxahatchee River Management Coordinating Council:**
Sam Payson
- C. Northern Palm Beach Chamber of Commerce:**
L. Marc Cohn
Michael O'Rourke
- D. Forum Club of the Palm Beaches:**
O'Neal Bardin, Jr.
Ronald M. Ash - alternate
- E. National Pollutant Discharge Elimination System (NPDES) Steering Committee**
C. Danvers Beatty
Adrian M. Salee – alternate
- F. Water Resources Task Force**
Adrian M. Salee
- G. Board Liaisons - Intergovernmental Agencies:**
Town of Jupiter – Matthew J. Boykin
City of West Palm Beach – Michael O'Rourke
Palm Beach County – L. Marc Cohn
Village of North Palm Beach – Adrian M. Salee
Town of Juno Beach – Ronald M. Ash
City of Riviera Beach – Matthew J. Boykin
City of Palm Beach Gardens – L. Marc Cohn

Mr. Salee asked that affected local governments be notified of their new Board liaison.

7. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Mr. Ash called for any comments from the public for items not on the Agenda to which there was no response.

8. 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. 7 Dyer Boulevard
Consider Certificates of Correction
- Unit No. 19 Regional Center
Consider Authorization to Close Trust Fund
- General
Consider Signatory Resolution (2010-09)

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:

Approved Disbursements from November 17, 2010 Board Meeting					
			NOTE	L/O	
	BOND	EIPC	Proceeds	Funding	TOTAL
Unit No. 2C – Scripps II/Briger Tract				316.76	316.76
Unit No. 9B – Abacoa II		700.00			700.00
Unit No. 31 – BallenIsles		27,600.00			27,600.00
Unit No. 51- Frenchman’s Harbor		192.50			192.50
		28,492.50		316.76	28,809.26

copies of which are contained in Northern files.

9. UNIT OF DEVELOPMENT NO. 19A–IRRIGATION

Mr. Bardin explained that on September 6, 2005, Northern entered into an Irrigation Easement Agreement with the current landowner of the Mira Flores property. This property is being sold and pursuant to the terms of the Irrigation Easement Agreement, Northern’s consent to its assignment is required.

Mr. Edwards explained that the Purchase and Sale Agreement entered into by the parties was included in the materials. He stated that the closing on the transaction has not yet taken place. Mr. Edwards further explained that Staff is recommending approval of the consent document with the caveat that the Board’s approval should be subject to a ninety day expiration period. If the closing has not taken place during the ninety days, the consent will have to come back to the Board for reconsideration.

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

10. UNIT OF DEVELOPMENT NO. 31–BALLENISLES

Mr. Beatty explained the guardhouse repair project to the new Board Members and showed photos of the repair work. He reported that Northern has received a settlement offer from Waste Management’s insurance company which covers all of the expenses associated with this project.

Mr. O’Rourke inquired if any expenses had been declined by the insurance company, and Mr. Beatty confirmed that all expenses were approved.

A **motion** was made by Mr. Salee, seconded by Mr. O’Rourke and unanimously passed authorizing Staff to approve the settlement offer in the amount of \$39,771.00 and, once received, issue final payment to the contractor.

11. UNIT OF DEVELOPMENT NO. 44 – THE BEAR’S CLUB

- Mr. Bardin explained that the Landowner originally requested Northern’s return of some real property to them. Subsequently, they wanted to change various parcels that would be conveyed and Northern was

amendable to working on the necessary agreements, brought them to ERC in October and was prepared to present them to the Board for consideration when Staff learned of the U.S. Army Corps of Engineers' (ACOE) objections to the proposed new uses of the subject parcels. The Landowner requested the item be removed from the October Board agenda and, following that request, Northern was informed of the issuance of a Notice of Non-Compliance by South Florida Water Management District (SFWMD).

Mr. Bardin further explained that the Landowners are solely responsible under the ACOE permit and there is no exposure to Northern. He stated his purpose was to inform the Board of the situation and he will continue to have Staff monitor this matter.

Mr. Bardin noted that the Landowner is disputing whether the ACOE has jurisdiction over the parcels in question. He also stated that the Landowner has applied for but not yet received a permit from Northern. He is requesting authorization from the Board to continue working with the Landowner and the other agencies involved in this issue.

Mr. Cohn asked if the Landowner is working on the compliance conditions and Mr. Bardin responded affirmatively.

A general discussion followed regarding the possible legal remedies available to Northern. It was determined by Board consensus that this issue would be brought to the Legal Committee in early December. Legal alternatives will be presented to the Committee at that time and Committee recommendations will be brought back to the Board for consideration.

- Mr. Lawson stated that the final lift of asphalt project has been progressing and Lynch Paving has submitted an Application for Payment in the amount of \$217,268.52 with \$30,191.25 remaining on the contract. He explained in his recommendation letter that there are numerous areas of concern regarding the asphalt overlay and he is recommending that they be corrected prior to full payment. Based on the work performed to

date, Mr. Lawson is recommending that \$100,000.00 be withheld for the repair work and the amount of the Application for Payment Number 1 be reduced to \$117,268.52.

Mr. Ash asked what amount of retainage was listed in the contract and Mr. Lawson stated it was ten percent. He asked Mr. Lawson to provide photos of the project once completed.

A **motion** was made by Mr. Boykin, seconded by Mr. Salee and unanimously passed approving the Application for Payment Number 1, as amended by the District Engineer's recommendation, in the amount of \$117,268.52 to Lynch Paving.

12. UNIT OF DEVELOPMENT NO. 51– FRENCHMAN'S HARBOR

Mr. Lawson presented a status report of this project for the benefit of the new Board Members. He showed accompanying photos of the seawall construction, the internal canal construction and access roads to the project. Mr. Lawson stated that work is currently being performed under the existing Northern permit, but Staff expects to receive a new permit application soon. He reported that he will have updated project photos to present at next month's meeting.

Mr. Bardin explained that this is a Toll Brothers project and certain works identified in the Plan of Improvements will be conveyed to Northern. Their maintenance will be addressed in a High Level Maintenance Agreement that is being developed.

13. GENERAL

Mr. Beatty reported that over the last several years, Northern's Administrative and Emergency Operations Center (ADM/EOC) Building has been experiencing water leakage and resulting damage. To address the situation, Northern hired an expert consultant, Glazing Consultants International LLC (GCI), to create repair specifications, review bids and oversee the construction phase of the necessary remedial work.

He explained that the project was publicly bid and three (3) bids were received from qualified contractors. The low bid was received by Fleischer's Inc., which subsequently withdrew its bid after

discovering that its insurance was insufficient to meet the bid requirements. Mr. Beatty stated that GCI reviewed the two (2) remaining bids and recommended award of the ADM/EOC Waterproofing contract in the amount of \$96,140.00 to Sun Art Painting Co.

Peter Craig of GCI addressed the Board and explained that this project was unique in that some work needs to be undone before the painting can be done. He further explained that he reviewed all three (3) submittals and the subsequent withdrawal of Fleischer's bid helped to qualify Sun Art's bid.

A **motion** was made by Mr. O'Rourke, seconded by Mr. Salee and unanimously passed approving the award of the ADM/EOC Waterproofing contract in the amount of \$96,140.00 to Sun Art Painting Co.

14. MISCELLANEOUS REPORTS

A) ENGINEER

- Mr. Lawson had nothing to report.

B) ATTORNEY

- Mr. Edwards advised the new Board Members that they are now governed by the "Sunshine Law". He provided them with a copy of the Florida Commission on Ethics 2010 Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees, a copy of which is attached hereto. Mr. Edwards reviewed the basics with regard to communication with other Board Members.

Mr. O'Rourke inquired about how the law applies to Committee meetings and Mr. Edwards advised that Committee Meetings are required to be publicly advertised.

- With regard to the Code of Ethics, Mr. Edwards reviewed the basics of disclosing voting conflicts. He explained that in certain circumstances Landowner-elected Board Members must disclose a conflict, but may still vote on the issue, whereas a Popularly-elected Board Member must disclose the conflict and is prohibited to vote on that issue.

Mr. Ash mentioned that he attended a Palm Beach County Ethics course which he found helpful and noted that Mr. Edwards is always available to provide assistance and counsel as needed.

- Mr. Edwards gave a brief overview of the recently approved County-wide application of the Palm Beach County Code of Ethics. Mr. Edwards explained that Northern could choose to opt-in to Palm Beach County's program but is not required to do so. Northern is already governed by Federal and State Ethics Laws.

A general discussion followed with regard to possible conflicts if Northern's Board Members sit on another municipality's committee and the effect of a recent amendment to the County's Code of Ethics.

Mr. Boykin asked that this matter be looked into further and brought to the Legal Committee at their meeting being scheduled in December.

Mr. Cohn stated that he currently sits on the City of Palm Beach Gardens Budget Advisory Board and a discussion followed with regard to whom he should be making that disclosure.

C) EXECUTIVE DIRECTOR

- Mr. Bardin presented the Community Information and Press Box Report.

15. RECEIVE AND FILE

Mr. Bardin presented the following items to be received and filed:

- Operations Department Newsletter;
- Email from Ken Todd to Adrian Salee confirming WRTF Appointment;
- Northern's Monthly Financial Reports; and
- Proof of Publication of Meeting Notice

copies of which are contained in Northern's files.

16. COMMENTS FROM THE BOARD

Mr. Ash welcomed the newest Board Members, as did Mr. Salee and Mr. Boykin.

17. **ADJOURN**

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

A handwritten signature in blue ink, appearing to read "Ronald M. Aze", written over a horizontal line.

President

A handwritten signature in black ink, appearing to read "Dina Bardin", written over a horizontal line.

Secretary