

# MINUTES OF THE BOARD OF SUPERVISORS

## ISLE OF PALMS SPECIAL DISTRICT

December 8, 2021

[As a result of the *lifting* of COVID-19 Pandemic restrictions related to public gatherings, Board meetings have returned to the San Pablo Public Library]

Board President Ken Wright opened the meeting; calling it to order at approximately 1833 hours with a Roll Call of all Board members present at the San Pablo Public Library. Other Board members/officers present were Vice President Paul Raudenbush, Secretary Brad Radloff, Member David Touring, and Member Josh Reichert. A quorum was established with all five Board members present at the meeting. Board Attorney Wayne Flowers of Lewis, Longman & Walker (LLW) was also present at the meeting. Charlene Stroehlen, P.E., the Project Manager with Wood, PLC, along with Mike Terano, as representative for the District's Engineer of Record to administrate the dredging efforts, were also present for the meeting via call-in/speaker. Lance Young of Brance Diversified, Inc. (BDI), the dredging contractor, did NOT attend. There were about 7 homeowners from the District physically attending the meeting and several unidentified call-in attendees. The meeting was held in a Community Meeting Room of the Pablo Creek Regional Library at 13295 Beach Boulevard, Jacksonville, FL 32246 but could also have been attended via Skype-based audio-only teleconference. The call-in phone number was (904) 348-0303 and the Conf. ID was 972932507#]

### **Agenda-Specific Public Comments [Agenda Item 1]-**

As a result of a Florida Statute, *public comments of Agenda items only* (no general items) are to be taken prior to addressing the Meeting Agenda. There were no public comments on any of the Agenda items from homeowners - either present (if so) or from those that may have called-in to the meeting.

### **OTHER AGENDA ITEMS**

2. Vote on approval of the Meeting Minutes from the regular monthly Board meeting on November 10, 2021.

**MOTION:** To approve the minutes of the Board meeting on November 10, 2021, by KWright.

**The motion was seconded by PRaudenbush and PASSED unanimously by the Board members present.**

3. Treasurer's Report. PRAudenbush provided an update to the Treasurer's Report for this meeting and reported the District's bank balance [combined balance bet. two accounts- Wells Fargo and SunTrust) at \$ 708,323.16, as of December 8, 2021. There was one bill(s)/invoice(s) needing approval for payment: (1) \$1,503.50 to Wood, PLC for weekly inspections and survey reviews during November. Paul also reminded the Board that a second payment of \$197K+ (the payments for which have already been approved) to HWSD for use of their spoil site was coming up. As a special note, there is a dual signature requirement that is in place for all checks/bill payments. Also, now that the District has obtained a loan for the dredging, all the dredging invoices have to be pre-reviewed by the Bank prior to providing the funds to the district to make the payments.

**MOTION:** To approve payment for the Wood invoice, as described above, by PRAudenbush.

**Motion was seconded by JReichert and PASSED unanimously by the Board members present.**

4. Review dredging progress, surveys, and Wood review AND further surveys. [**HISTORY:** initially, from a previous meeting, this agenda item brought up questions about addressing damages to homeowner's facilities (docks, decks, lifts, etc.) and how that is being handled. Some discussion ensued between the Board and attendee(s) on how to actually handle claims and who should handle it. PRAudenbush indicated that when damage is done, it is the Contractor's responsibility to notify the Board but then also contact the homeowner directly and take the necessary actions to repair the damage. Apparently, the contractor has not been taking these actions or otherwise not making the necessary notifications either. PRAudenbush also indicated that the Board has a copy of BDI's Certificate of Insurance (COI) from Kelly White & Associates Insurance Company and that, if necessary, a homeowner can request a copy of it in order to file a claim directly with the insurance co. (the insurance co. requested that the COI not be posted on the District website) but in any case claims should also be provided to the Board so that a list can be made and BDI held accountable at the end of the project. There was also discussion about withholding final payments to BDI (near the completion of the project) until BDI has taken care of all damages made to homeowner's facilities. PRAudenbush indicated that he has been in contact with Charlene Stroehlen (Wood Engineer) about actual progress with satisfying contract depths, specifically with regard to the NIOP, and that there are several areas that still need to be addressed and PRAudenbush and Charlene will be addressing that with BDI. Some discussion occurred regarding concerns from the Bank with the occasional over-dredging beyond 6' (-6.5') of water at mean low tide and that since it is beyond the scope of the contract whether the District should pay for that. PRAudenbush indicated (from talking to Charlene) that it appears those areas are infrequent and will fairly quickly slump back in bringing it to the contracted depth or very close to it and, as such, will end up being better since more

material will end up being removed. He also indicated where BDI was currently dredging just prior to the meeting and where he expected they might be going thereafter. Walt from the Central IOP canal, spoke to his concerns about not knowing when the dredgers will be back to finish his canal, so that he can move his boat again and doesn't understand why a schedule can't be adhered to or at least provide several days prior notice when they are going to return. The Board recognized his frustrations as they are experiencing the same thing and suggested that they are working with the Contractor as best as they can to try and get them to provide a more realistic schedule. At the October meeting, several issues were brought up starting with individual/personal dredging (but only in front of certain homeowner's lots) being reported at various areas, even in N and CIOP, while contract dredging is occurring down in the SIOP. No one has any information on this activity but it is assumed that the dredger is willing to divert his resources from the contract work to individual work possibly for exceptional payment from willing individuals. There was no action that appeared could be taken other than if such activities pushed the schedule back enough to cause liquidated damages to become an issue for the dredger. Another issue that Wood (Charlene Stroehlen) brought up was that the BDI's monitoring/inspection boat has broken down and so, Wood cannot effectively conduct their weekly inspections and Charlene said BDI indicated that the boat be fixed in a week or two. PRaudenbush asked Charlene if there is anything that the Board should be worried about during this condition and she indicated that as long as the turbidity and the depths are monitored, there shouldn't be a problem. Another issue that was brought up regards the completion of all 11 progress surveys that the IOPSD is required to have done, in accordance with the contract, after which BDI is required to have any additional surveys done. However, because ARC Surveyors are contracted with the IOPSD for this project, any additional surveys will have to come through the IOPSD. As such, ARC has provided a proposal for the Board to review and approve for the additional surveys. The proposal indicates that the cost for the surveys has increased quite substantially and without any explanation. Much discussion ensued between the Board members on this issue, including when this proposal needs to be approved, should we get more information about why the cost increased, should BDI be paying for these upfront, and similar. Opinions varied amongst the Board members. KWright and BRadloff thought some questions needed to be asked of ARC before approving the proposal and possibly some kind of discussion with BDI to make sure that they already know that they are bound by the contract to pay for the additional surveys (PRaudenbush indicated that the cost for the surveys can be subtracted from BDI fees, if necessary). At the last November meeting, PRaudenbush reported that BDI thinks they are just about done with the ENTIRE project (by the end of November) and that they have submitted a "final" dredging schedule. There were the usual questions from some of the attendees (Ron Swanson-Queen Palm, Jan Mullen-Silver Palm, and Sam Daile-Plumosa) regarding whether the dredgers are done and, if so, "it doesn't seem like it," if not, "then, when are they coming back," and what about prop wash around certain docks (mostly along the west side of Silver Palm) that has made the made the situation worse. To answer the questions, PRaudenbush explained that the completion of the dredging project is based upon the results of hydrographic surveys and not the opinion of the dredger and went on to provide brief discussion as to the general process and timing

associated with closing the project out, once it becomes apparent that the dredging is getting closer to actual completion. Some attendees expressed confusion about a flyer that BDI distributed to the homeowners offering the individual dredging services coming up in December. It was explained that BDI probably jumped the gun on that offering a little since they still haven't officially completed the contract dredging as yet.

KWright brought up discussion again on the new contract with ARC for additional surveying that will need to be done in order to get to a completion of the project. However, apparently, BDI has hired their own surveyor to measure the results of his dredging and, possibly, to contest the results of ARC's surveying. Discussion ensued, between the Board members, as to the ramifications of such a move, if any, and agreed that they are welcome to do that, if they want to, but at the end of the day they will still have to comply with/follow the contract which stipulates that the surveying be done by ARC Surveyors. Also, PRAudenbush indicated that the contract stipulates the use of ARC and from a technical standpoint the same surveyor should be used for all aspects of the project to ensure consistency throughout the project. Charlene agreed with Paul and suggested that BDI had the opportunity to conduct a pre-dredge survey, to provide data closer to the beginning of the project rather than the last survey IOPSD conducted in July 2020, but they did not do it. Mike also with Wood added that during his weekly inspection Lance indicated that his surveyor was "DeGrove" in Jacksonville but it was not entirely clear who that is. The discussion resulted in an agreement that the District should only need two more final surveys, once BDI indicates that they are done with any and all dredging around the entire district, to provide a final determination. KWright volunteered to contact and negotiate with ARC to provide a proposal for the last two surveys, with the Board's approval.

There were other concerns from the attendees regarding BDI's response to claims for damage to homeowner facilities (most have not gotten any response and/or anything repaired) and also to potential damages during the individual dredging. A short discussion was held between the Board members and attendees to which PRAudenbush indicated that claims need to be filed first with BDI and/or their insurance AND also with the Board since a list will be compiled to track whether such claims have been satisfied or not. Because a retainer has been withheld from each invoice submitted by BDI, such retainage will not be paid by the District until all the claims have been satisfied. As for the damages incurred after the primary contract dredging is complete, it was somewhat questionable how BDI will be held accountable but PRAudenbush indicated that the additional dredging was required by the contract, as well as the unit price for such, and that BDI can still be held accountable and/or his insurance company.] For this December meeting, KWright reported that he had obtained a new proposal for surveying from ARC as the Board requested from the last meeting. The quoted price was for one survey of the entire IOPSD for \$19,500.00. However, some discussion ensued between the Board members as to why the District would be paying for these services and why ARC's proposal does not seem to indicate including two surveying activities which would be needed to finalize the dredging when the time comes to that. The Board agreed that the proposal needed to be adjusted to include final surveys and asked that KWright have

the proposal adjusted.

**MOTION:** To authorize KWright to ask ARC to adjust their proposal to include the final two surveys (but with no authorization to proceed until such time as the Board provides it), as indicated above, by KWright.

**Motion was seconded by PRAudenbush and PASSED unanimously by the Board members present.**

As in almost every meeting, this one was no different with varying concerns from homeowners attending about what can be done about prop-washed areas, resolving damage claims, areas still needing dredging (even though the contractor is saying that he is done), and when and what will be the final indicator that the dredging is complete.

DTouring also reported that he had had a meeting with Lance Young of BDI, on the morning of this meeting day, apparently to discuss BDI's progress, by showing DTouring his own surveys, and to propose a special meeting between the District and BDI to discuss contract details. DTouring indicated that upon a brief review of BDI's survey, that it DID look pretty good. Apparently, Lance Young also indicated that, for the special meeting he was proposing, he wanted it to be closed to the homeowners. Some of the Board members expressed some confusion as to why a special meeting was needed when all BDI has to do is attend the regular monthly meetings and all the business that he wants to tend to can be done. In addition, the Board members all agreed that even if the Board agreed to a special meeting that it would have to be published and have to allow the attendance of the homeowners, by law; so he should just attend the monthly meetings.

5. David Touring Report on progress getting Reimbursement from City under the 12% Cost Sharing Ordinance. DTouring reported that from last month's meeting the Board had to execute the City's agreement for the cost-sharing and the District had to be registered onto the City's "iCloud" for vendors and that both have been completed since then. He also, suggested that the first application for reimbursement totaling about \$150,000 is still pending. Meanwhile, DTouring still indicates that he is still trying to collect as many paid invoices, cleared checks, and other payments made for expenses related to the dredging thus far, so that the Board can submit another payment application (which be easier going forward). Apparently, when the payment is made it will be a direct deposit to the District's bank account.
6. Meeting arrangements for 2022. Josh reported that he will be meeting with a particular person (Jason) with the library that will be able to secure a schedule for the whole upcoming year, not just month to month, but he does have January and February scheduled. Even though room reservations at the library have not been confirmed for more than one month at a time, WFlowers was asked to go ahead publish the dates, as usual, for the 2<sup>nd</sup> Weds. of each month and, if necessary, can be changed later.

7. New Business. None

***General Public Comment -***

There were no other comments from the public at the end of the meeting (comments/questions were taken during the meeting, if any).

***Adjournment -***

KWright adjourned the meeting at 1918 hrs.

***Future Meeting Dates -***

Meetings are held on the second Wednesday of the month (6:30 PM), at the "Pablo Creek Regional Library," 13295 Beach Blvd. Jacksonville 32246. **However, because of the dredging currently going on, please check the District's website ([isleofpalmsjax.com](http://isleofpalmsjax.com)), often, for any updates to the location and time of any upcoming meeting AND for any "Special" or "Emergency" meetings needed to manage the dredging effort.**

January 12, 2022      February 9, 2022