

MINUTES OF THE BOARD OF SUPERVISORS

ISLE OF PALMS SPECIAL DISTRICT

November 13, 2019

Board President Ken Wright opened the meeting; calling it to order at approximately 1831 hours with a Roll Call of all Board members present [Agenda Item 1]. Other Board members/officers present were Vice President Paul Raudenbush, Secretary Brad Radloff, Member Dave 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 present and Joe Wagner, P.E. of Wood, PLC, as representative for the District's Engineer of Record to administrate upcoming dredging efforts, was also present at the meeting. Approximately 18 homeowners from the District attended, two others as interested parties, and Stanley Pipes representing HWSD. The meeting was held in a Community Meeting Room of the Pablo Creek Regional Library at 13295 Beach Boulevard, Jacksonville, FL 32246.

Agenda-Specific Public Comments [Agenda Item 2]-

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 attending homeowners (however, any who wished to comment later, during the meeting, did so as discussions proceeded on each agenda item).

OTHER AGENDA ITEMS

3. Approve the Minutes of the October 9, 2019 Board meeting.

MOTION: To approve the minutes of the October 9, 2019 Board meeting, by KWright.

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

4. Treasurer's Report. PRaudenbush provided an update to the Treasurer's Report for this meeting and reported the District's bank balance at \$1,467,538.63, as of November 13, 2019. In addition, there were three bill(s)/invoice(s) needing the Board's approval for payment and included: 1) LLW, \$1,300.00 for monthly legal fees for July (\$500.00), August (\$600.00), and September (\$200.00) and 2) Magers & Associates, LLC (Magers),

\$4,900.00 for annual auditing. For the Magers invoice, the \$4,900.00 represents the one and only final invoice for the auditing services after a questionable “progress billing” invoice (for partial completion of auditing services) had been submitted by Magers prior to the October meeting. Since the Board had never been billed, by Magers, this way (progress) before (in past years, a final invoice has always accompanied the completed audit), KWright and PRAudenbush suggested that the payment of the Magers invoice be deferred pending an explanation from Magers regarding the change in invoicing. As a special note, there is a dual signature requirement that is in place for all checks/bill payments.

MOTION: To approve payment(s) to LLW and the Magers, as described above, by PRAudenbush and KWright, respectively.

The motion(s) were seconded by BRadloff and PASSED unanimously by the Board members present.

For the monthly summary/update regarding the Budget Report, there was no discussion since amendments were made to the budget at the June meeting to reflect more accurate line items for engineering, auditing, and insurance fees. The general intent of said report is to facilitate the reporting/accuracy of the current year’s budget and preparation for projecting the upcoming fiscal year’s budget and will be very useful closer toward the end of the fiscal year.

5. Update on efforts to secure potential overpayment of \$600,000.00 from past dredging toward future dredging, and anything new on the 12% City cost share issue. [*HISTORY*: (More recent *History* than in the following paragraph) from the last meeting in October, PRAudenbush had suggested that there was some good news he obtained from Rory Diamond via the City’s “treasury office” regarding an over-payment of more than \$600,000.00 as a result of the original dredging effort completed in 2005. It has been sitting in the City’s account until, apparently, they figure out how to reimburse all the original contributors and the City was not all too sure how the over-payment occurred. It had been suggested that since the monies were collected with the intent of going toward the original dredging activities in the IOP community, it should all be assigned to the current District for use in continued maintenance dredging. Other options, such as returning the money to original contributors, need to be discussed and considered. PRAudenbush indicated that he had plans to meet with the City to discuss the options and bring those options back to the Board for consideration and that we would need WFlowers’ representation during these discussions. A brief discussion ensued between Board members, at the October meeting, regarding possible options and their opinions, etc. The end result of the Board discussions was that much more information was needed about where the additional funds came from and/or why they became available in order to help with determining possible options for the final disposition of said funds.

As for the on-going *History* of the 12% cost share issue, WFlowers and PRAudenbush

had contacted the COJ, several months ago, to determine their position on the Ordinance that appears to allow for a 12% contribution from the COJ for the District's dredging efforts. Both received the same answer -- the COJ's position according to the OGC was that the 12%, in their opinion, does not apply to the IOPSD because the District already has an avenue for collecting funds to conduct maintenance dredging. At the September 2018 meeting, Mr. Pipes was asked if their District was able to benefit from the Ordinance to which he suggested that they could not since their waterways are not officially available to the public, which is also the explanation the OGC used for their opinion to our District. It has been Mr. Wagner's position, however, that he thinks the IOPSD should pursue this issue based upon his knowledge of those that have been able to take advantage of it (i.e., Miller's Creek but which has some public access, an apparent qualifying factor). At the December 2018 meeting, it was thought by some Board members that the issue should still be "pressed" by appealing to the District's City Councilmember - the need to find someone in the neighborhood that has contacts at the COJ to make in-roads with either Councilman Gulliford or the new in-coming councilman (since it appears Gulliford may be term-limited out). Since the December 2018 and more recent previous Board meetings, PRAudenbush indicated that he had reached out to Rory Diamond, an upcoming new City Councilmember for our district, about possibly attending the District's meetings (Mr. Diamond attended and participated in the April Board Meeting) and about the possibility of supporting our push to obtain the 12% cost-share and trying to obtain further support from other councilmembers. At another previous Board meeting in February, PRAudenbush's suggestion was to try and make this happen prior to the City Council approving a new budget and prior to our going out for bids on the dredging, so that the 12% contribution can be included in the City's budget for FY 2019/2020. Then, at the Board's March meeting, PRAudenbush provided similar and additional information for the possible cost sharing as it related to the budget approval for FY 2019/2020 and added that the Board may need help from WFlowers to draft language to present a proposal to the COJ. Also at the March meeting, DTouring sought some clarification on whether the 12% cost share, if obtained, would need to be solicited from the City for each year after initial approval and, if the dollar amount is based on construction costs, how would the total dollar amount be determined prior to obtaining bids for construction. According to Joe Wagner and WFlowers, once approved by the City, the funds stay in the budget until the funds are exhausted or until something changes that would make the funds inaccessible. Joe Wagner also indicated that for Miller's Creek, Woods' Opinion of Cost (Engineer's Estimate) was used to determine the necessary dollar amount for purposes of designating the necessary funds to the City's budget line item. At the April meeting, with suggestions from Rory Diamond, it was decided that the District prepare (at least in draft form) a letter/proposal that will be submitted to the City indicating why the Board believes our District qualifies for the cost share. PRAudenbush indicated that he might be able to prepare an initial draft letter, with help from Joe Wagner and WFlowers, for review by the rest of the Board during the May meeting. For the May meeting, PRAudenbush presented to the rest of the Board members, an initial draft letter requesting support from the City Council to include in their Budget for FY 2019/2020 the 12% cost share (or about \$768,000.00). The Board discussed the content of the letter, including minor revisions to the grammar specifics,

etc. and approved of and lauded PRAudenbush's work on it. There was also a discussion on how to present this proposal to all the other Councilmembers, including trying to meet one-on-one with each of them. At the June meeting, PRAudenbush indicated that he had sent the Board-approved letter to all the City Councilmembers. After which, discussions, amongst Board members, ensued once again about how to get the support of said Councilmembers and the timing involved with getting the 12% cost share for the IOPSD put into the City's budget for FY 2019/2020. Based upon the discussions, it was determined that the 19 Councilmembers should be approached after July 1st, when all newly-elected Councilmembers would be in place, to discuss the possibility of getting their support of the 12% cost share for IOPSD and have it included in the City's budget. Three to four Councilmembers were assigned to each Board member for contacting after July 1st (and once again, if there are homeowners in the District that have contacts/connections with any Councilmembers, the District would be happy to get some help from them for introductions, etc.). At the July meeting, PRAudenbush provided some update on where the COJ is relative to the budget process (we missed the original budget submittal but still pushing for the next step in the process) and his further discussions with certain of the Council Members and their support of our proposal. Then, at the August meeting, PRAudenbush provided an update that was similar to the update at the July meeting except that our push into the COJ's budget process *might* have been too late and that the push may have to be made early next year to make it into the process then. Also, at the October meeting, PRAudenbush suggested that there was bad news (based upon discussions with Councilman Rory Diamond) regarding getting the 12% cost share into the City's budget and that it did not make it this year but that the Board will have to re-initiate the effort early in 2020.]

For this November meeting, PRAudenbush had new information about the potential \$600,000.00 overpayment issue. First, he suggested that the initial use of the term "over-payment," as it was given to him, was inaccurate. He was made aware of said inaccuracy during a meeting he had had on November 12, 2019 with members of the COJ and more specifically, City Councilmember Rory Diamond (District 13), Makenzi Conner (Executive Council Assistant for Rory Diamond), Paige Johnston (COJ - OGC), Teresa Eichner (Mayor's office), and Phillip Peterson, CPA (COJ -- Council Auditor's Office). PRAudenbush also passed out copies of an email, dated November 13, 2019, from Mr. Peterson that provides a statement as to the official disposition of the funds, based upon Mr. Peterson's research into the issue. The statement indicates that the funds were not a result of "over-payments" but rather "interest and late payments" made by property owners that had chosen to pay the original cost (per lot) over a period of 10 years. The statement also indicates that 104 property owners chose to pay the lump sum amount (without interest), leaving 395 property owners to pay over the 10 year loan period (with interest). As of the date of the emailed statement, Mr. Peterson indicated that 272 properties (of the 395 choosing to pay over time) had been reviewed so far and "zero overpayments" were made. He also indicated that they were still in the process of examining other scenarios in which properties changed hands and the residual balance was paid at closing and that once their review was complete, he will provide a follow up response. PRAudenbush went into a brief discussion of the how and why the funds

appeared and what we can expect as a result of the City's research. So, basically, as it looks, the funds belong to the COJ and, as such, there will be no distribution to property owners.

There were some questions from the attendees Quinton Brown (SIOP) and Charles Gear (NIOP) regarding the ability to obtain the 12% cost share and when, and Brandon Arthur (SIOP) asking about whether the District obtains interest on the funds accumulated currently, so far (the answer was yes). The \$600,000.00 is a separate issue from the 12% cost share issue but was discovered when trying to obtain a line-item contribution in the City's budget for the 12% cost share for upcoming dredging. And the potential for receiving said cost share is still on the table.

Joe Wagner spoke up regarding the way Miller's Creek SD has obtained such funding from the City as a matter of having much public usage of their waterways but also believes our District has similar public usage due to other communities that have to use our main entry waterways for entry to their basins. He also indicated that the 12% is apparently based upon not only dredging related fees and expenses but also engineering fees, legal fees, and audit fees, etc.

Former Board member Tim Pacheco asked about how much the District would be paying for the HWSD's spoil site allocation once we come into an agreement. Stanley Pipes provided some insight as to the proposed cost (i.e., \$3.96/yd.) to use the spoil site but nothing has been agreed upon as yet and is based on a suggested total volume over a certain period of time.

6. Update on IOP Website possible migration to new host provider. PRAudenbush provided an update on this and indicated that the District WILL need obtain a new host-provider, mostly because it is run under Flash-Player which will soon no longer be supported. There is a legal requirement for the District to maintain a web-site, so this will have to be done in the near future, like January, and it will no longer be free, as it is now.
7. Update on efforts to secure library meeting dates for next year. JReichert, as newly appointed handler of securing such dates, suggested that he is ready to make the reservations once the Board picks the dates. KWright suggested that we just need to reserve the 2nd Wednesday of every month and do the whole year so it can be published. JReichert indicated he could only do three months at a time but Tim Pacheco, whom formerly made the reservations for the District, suggested that JReichert could schedule for the whole year, if he informed the library folks that our group was a City entity/governmental.

MOTION: To schedule meetings on the 2nd Wednesday of each month for the whole year of 2020, by KWright.

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

8. New Business. DTouring had some former issues to discuss when the District might be able to obtain the 12% cost share and how soon and going ahead and bidding out the dredging to see what actual bids might be and how those bid results might relate to the 12% cost share and/or obtaining loans. There were various positions indicated on whether to bid out now, including waiting to see how the City's cost share issue pans out and the costs associated with the bidding process, not to mention the initial costs of acquiring the currently proposed spoil site capacity. DTouring motioned that the Board put a bids out, to which there was no 2nd to the motion and, thus the issue dropped for that moment but deferred until the next meeting. He also wanted to discuss the spoil site proposal and consider purchasing the capacity now in anticipation of planning for future dredging, not just the upcoming one. PRAudenbush suggested that the Board start discussing the HWSD proposal and KWright indicated that he will be putting the issue on the agenda for the next meeting and that the Board members should review the proposal and be ready to discuss.

General Public Comment -

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

Adjournment -

KWright adjourned the meeting at 1924 hrs.

Future Meeting Dates -

Meetings are to be held on Wednesdays at 6:30 PM at the "Pablo Creek Regional Library," 13295 Beach Blvd. Jacksonville 32246; for the dates listed below:

December 11, 2019