



**HOBE-ST. LUCIE
CONSERVANCY DISTRICT**

MARTIN COUNTY

**BOARD OF SUPERVISORS MEETING
SEPTEMBER 28, 2022
9:30 A.M.**

Special District Services, Inc.
The Oaks Center
2501A Burns Road
Palm Beach Gardens, FL 33410

www.hobestluciecd.org
561.630.4922 Telephone
877.SDS.4922 Toll Free
561.630.4923 Facsimile

AGENDA
HOBE-ST. LUCIE CONSERVANCY DISTRICT
Hobe Sound Polo Club
2935 SE Bridge Road
Hobe Sound, Florida 33455
BOARD OF SUPERVISORS MEETING
September 28, 2022
9:30 a.m.

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish Quorum
- D. Additions or Deletions to Agenda
- E. Comments from the Public for Items Not on the Agenda
- F. Approval of Minutes
 - 1. July 27, 2022 Board of Supervisors Board Meeting.....Page 3
- G. Old Business
 - 1. Update Regarding Martin County Litigation.....Page 9
 - 2. Status Update Regarding RG Reserve Pipe Permit
 - 3. Status Update Regarding Howe Holdings Agreements
- H. New Business
 - 1. Consider Resolution No. 2022-09 – Approving the First Amended Water Control Plan for Unit of Development 1A.....Page 11
- I. Administrative Matters
 - 1. Engineer’s Report
 - 2. Attorney’s Report
 - 3. Manager’s Report
 - 4. Field Operations Report
- J. Board Members Comments
- K. Adjourn

Treasure Coast Newspapers

PART OF THE USA TODAY NETWORK

St. Lucie News-Tribune

1939 SE Federal Highway, Stuart, FL 34994

AFFIDAVIT OF PUBLICATION

**SPECIAL DISTRICT SERVICES INC
2501 BURNS RD, #A**

PALM BEACH GARDENS, FL 33410-5207

STATE OF WISCONSIN
COUNTY OF BROWN

Before the undersigned authority personally appeared, said legal clerk, who on oath says that he/she is a legal clerk of the St. Lucie News-Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St. Lucie News-Tribune in the following issues below. Affiant further says that the said St Lucie News-Tribune is a newspaper published in Fort Pierce, in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement ; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St. Lucie News-Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

Issue(s) dated before where the dates are noted:

10/13/2021

Linda Tuttle

Subscribed and sworn to before on October 13, 2021

Amy Kokott

Notary, State of WI, County of Brown

6/30/2025

My commission expires,

AMY KOKOTT
Notary Public
State of Wisconsin

Publication Cost: \$157.32

Ad No: 0004947176

Customer No: 1313371

PO#: HSL 21-22 Fiscal Yr Reg Mtg Schedule

HOBE-ST. LUCIE
CONSERVANCY DISTRICT
FISCAL YEAR 2021/2022
REGULAR MEETING SCHEDULE

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the Hobe-St. Lucie Conservancy District will hold Regular Meetings at the Hobe Sound Polo Club located at 2935 SE Bridge Road, Hobe Sound, Florida 33455 at 9:30 a.m. on the following dates:

October 27, 2021
November 17, 2021
December 15, 2021
January 26, 2022
February 23, 2022
March 23, 2022
April 27, 2022
May 25, 2022
June 22, 2022
July 27, 2022
August 24, 2022
September 28, 2022

The purpose of the meetings is to conduct any business coming before the Board. Meetings are open to the public and will be conducted in accordance with the provisions of Florida law. A copy of the Agenda for any of the meetings may be obtained from the District's website or by contacting the District Manager at (561) 630-4922 and/or toll free at 1-877-737-4922 prior to the date of the particular meeting.

From time to time one or more Supervisors may participate by telephone; therefore a speaker telephone will be present at the meeting location so that Supervisors may be fully informed of the discussions taking place. Said meetings may be continued as found necessary to a time and place specified on the record.

If any person decides to appeal any decision made with respect to any matter considered at these meetings, such person will need a record of the proceedings and such person may need to insure that a verbatim record of the proceedings is made at his or her own expense and which record includes the testimony and evidence on which the appeal is based.

In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations or an interpreter to participate at any of these meetings should contact the District Manager at (561) 630-4922 and/or toll-free at 1-877-737-4922 at least seven (7) days prior to the date of the particular meeting.

Meetings may be cancelled from time to time without advertised notice.

HOBE-ST. LUCIE
CONSERVANCY DISTRICT
www.hobestluciecd.org
Pub: Oct 13, 2021
TCN4947176

MINUTES OF THE BOARD OF SUPERVISORS MEETING
OF HOBE-ST. LUCIE CONSERVANCY DISTRICT
JULY 27, 2022

Pursuant to the above Notice, the Board of Supervisors of Hobe-St. Lucie Conservancy District held its Board of Supervisors Meeting on July 27, 2022 at 9:30 A.M. at the Hobe Sound Polo Club located at 2935 SE Bridge Road, Hobe Sound, Florida 33455.

Present were Rick Melchiori, Edward Weinberg and Robert Brown, Supervisors; Michael McElligott of Special District Services, Inc. as District Manager; Robert Higgins of Higgins Engineering, Inc. as District Engineer; and Mary M. Viator, Attorney. Also in attendance was Ms. Michelle Beninda of Coventry Development, Mr. Ray Spears of The Grassroots Corp and Mr. Donald Barnes representing Canopus Sound LLC.

CALL TO ORDER

The Board of Supervisors Meeting was called to order by President Melchiori.

ESTABLISHMENT OF QUORUM

The President announced a quorum was present and it was in order to transact any business to come before the Board.

ADDITIONS OR DELETIONS TO AGENDA

None.

COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

None.

APPROVAL OF MINUTES

A motion was made by Mr. Weinberg, seconded by Mr. Brown and unanimously passed approving the Minutes of the June 22, 2022 Public Hearing and Board of Supervisors Meeting, as amended.

OLD BUSINESS

1. Update Regarding Martin County Litigation

The Attorney reported the following update on the litigation filed by Martin County and SFWMD as follows:

On August 12, 2020, the Circuit Court entered two Final Judgments in the litigation. The Final Judgments essentially concluded that as a matter of law, lands owned by both Martin County and SFWMD are immune from the levy of non-ad valorem special assessments and the Special Districts have no legal authority to levy such assessments on these lands.

On September 10, 2020, Hobe-St. Lucie Conservancy District, through its appellate counsel, filed a Notice of Appeal with the Fourth District Court of Appeal.

On January 4, 2021, Hobe-St. Lucie Conservancy District filed an Initial Brief and Request for Oral Argument. The Florida Association of Special Districts (“FASD”) subsequently filed an Amicus Curiae (Friend of the Court) Brief in support of the District on January 12, 2021.

On March 5, 2021, both Martin County and SFWMD filed Answer and Briefs and Requests for Oral Argument.

On April 16, 2021, Hobe-St. Lucie Conservancy District filed a Reply Brief.

On November 17, 2021, the District Court of Appeal issued its written decision in favor of the District and reversed the summary judgment previously rendered in favor of the County and SFWMD. The Court stated in part, that both the County and SFWMD improperly conflated the terms “assessment” and “tax” “to justify their position”, and held that the District had correctly imposed a special assessment and not a tax. It further held that Sections 298.305(1) and 298.54 “provide the requisite statutory authority for imposing the special assessment,” and that Section 298.36(1) has no effect on Section “298.305(1)’s mandate to assess all lands.” The Court concluded that the reading of the law by the County and SFWMD “violate the clear mandate of 298.305(1),”

noting that both entities had paid these assessments for over twenty years.

Martin County and SFWMD filed Motions for Certification of Conflict and Great Public Importance. The District timely filed a Response on January 18, 2022. The District has also filed a Motion to Tax Appellate Costs.

On January 20, 2022, the Court denied the Motions for Certification of Conflict and Great Public Importance filed by Martin County and SFWMD.

On February 1, 2022, Martin County and SFWMD filed Motions to Stay Issuance of the Mandate. On February 10, 2022, the District filed a Response opposing these Motions.

On February 15, 2022, the Court denied the Motions to Stay Issuance of the Mandate.

On February 18, 2022, Martin County and SFWMD filed Notices to Invoke the Discretionary Jurisdiction of the Florida Supreme Court.

On February 28, 2022, Martin County and SFWMD filed their jurisdictional briefs.

On March 4, 2022, the District Court of Appeal issued its Mandate, which remands the case to the Circuit Court for entry of summary judgment in favor of the District.

On March 24, 2022, the District filed its Brief on Jurisdiction opposing jurisdiction of the Florida Supreme Court against Martin County and also SFWMD.

A hearing was held on July 15, 2022 on the District's Motion for Entry of Final Judgment. The Final Judgment dated July 15, 2022 was entered.

The judge has also entered an Agreed Order Taxing Appellate Costs in favor of the District, which has been paid.

The Florida Supreme Court rendered its decision regarding jurisdiction on July 20, 2022. No motion for rehearing will be entertained. The effect of the Supreme Court Order is that the ruling of the 4th District Court of Appeal controls. *See Hobe-St. Lucie Conservancy District v. Martin Co.* (Fla. 4th Dist. Ct. Appeal November 17, 2021).

2. Update Regarding RG Reserve Pipe Permit Application

The District Engineer stated that RG Reserve met with South Florida Water Management District. The Reserve Mitigation Bank was not doing its job to maintain and enhance the wetlands and there had been adverse impacts to the District in the form of a berm washout. The Board had directed the District Engineer notify South Florida Water Management District of the damage issues and to coordinate with South Florida Water Management District regarding the failure of RG Reserve to comply with the RG Mitigation Bank Permits.

The District Engineer stated SFWMD asked RG Reserve to work with HSLCD, with the understanding RG Reserve needs to pay HSLCD for the damages. The District Engineer indicated the landowner to the north was being brought in. The District Engineer was directed to continue to follow up regarding the Mitigation Bank Connection.

3. Update Regarding Howe Holdings Agreement

The District Engineer commented on Howe Holdings.

The District Engineer explained that Howe Holdings had a lease back with Thomas Produce and Thomas Produce has paid the past charges for 2021. Howe Holdings is to pay the charges going forward for 2022 and is cooperating. The Board deferred action based on the circumstances and that payment of past charges had been received from Thomas Produce. The District Engineer was directed to continue to follow up.

NEW BUSINESS:

1. Consider Approval of Irrigation Agreement between the District and Canopus Sound LLC

The District Engineer presented the proposed Irrigation Agreement between the District and Canopus Sound LLC.

A motion was made by Mr. Weinberg, seconded by Mr. Brown and unanimously passed

approving the Irrigation Agreement between the District and Canopus Sound LLC in accordance with the revised Irrigation Policy, subject to reimbursement of the District's Legal and Engineering Fees.

Mr. Brown announced a Conflict of Interest. Form 8B filed in District Records.

ADMINISTRATIVE MATTERS

1. District Engineer's Report

The District Engineer commented on the overall drainage issues.

2. District Attorney's Report

The Attorney reported on matters as they appeared on the Agenda.

The Attorney further commented on the status and the Bond Validation process relating to the issuance of bonds for Unit of Development No.1A.

3. Manager's Report

The District Manager reported on matters as they appeared on the Agenda.

4. Field Operations Report

Mr. Spears inquired as to the funding of the Grant for Unit 3 Water Control Structure. The contractor has been given Notice to Proceed. Separately Mr. Spear inquired about funding for a roof replacement at the St. Lucie Pump Station. Following discussion by the Board, it was the consensus of the Board to request proposals to perform the work and bring it back to the Board.

SUPERVISOR COMMENTS

NONE

NEXT MEETING

The next Board of Supervisors' Meeting was scheduled for September 28, 2022.

ADJOURN

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

President

Secretary

**CALDWELL PACETTI
EDWARDS SCHOECH & VIATOR LLP**

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OF COUNSEL
BETSY S. BURDEN

TELEPHONE: (561) 655-0620
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MEMORANDUM

TO: Board of Supervisors
FROM: Caldwell Pacetti Edwards Schoech & Viator, LLP
DATE: September 14, 2022
RE: Hobe-St. Lucie Conservancy District
Update Regarding Martin County/SFWMD Lawsuit

The following is an update on the litigation filed by Martin County (“the County”) and South Florida Water Management District (“SFWMD”), as follows:

APPEAL

On August 12, 2020, the Circuit Court entered two Final Judgments in the litigation. The Final Judgments essentially concluded that as a matter of law, lands owned by both Martin County and SFWMD are immune from the levy of non-ad valorem special assessments and the Special Districts have no legal authority to levy such assessments on these lands.

On September 10, 2020, Hobe-St. Lucie Conservancy District, through its appellate counsel, filed a Notice of Appeal with the Fourth District Court of Appeal.

On January 4, 2021, Hobe-St. Lucie Conservancy District filed an Initial Brief and Request for Oral Argument. The Florida Association of Special Districts (“FASD”) subsequently filed an Amicus Curiae (Friend of the Court) Brief in support of the District on January 12, 2021.

On March 5, 2021, both Martin County and SFWMD filed Answer and Briefs and Requests for Oral Argument.

On April 16, 2021, Hobe-St. Lucie Conservancy District filed a Reply Brief.

On September 28, 2021, the District Court of Appeal heard oral argument in this matter.

On November 17, 2021, the District Court of Appeal issued its written decision in favor of the District and reversed the summary judgment previously rendered in favor of the County and SFWMD. The Court stated in part, that both the County and SFWMD improperly conflated the terms “assessment” and “tax” “to justify their position,” and held that the District had correctly imposed a special assessment and not a tax. It further held that Sections 298.305(1) and 298.54 “provide the requisite statutory authority for imposing the special assessment,” and that Section 298.36(1) has no effect on Section “298.305(1)’s mandate to assess all lands.” The Court concluded that the reading of the law by the County and SFWMD “violate the clear mandate of 298.305(1),” noting that both entities had paid these assessments for over twenty years.

On November 23, 2021, the District Court of Appeal granted the County’s and SFWMD’s Motions for Extension of Time to allow them to file any post-opinion motions by December 17, 2021. Martin County and SFWMD filed Motions for Certification of Conflict and Great Public Importance. The District timely filed a Response on January 18, 2022. Appellate counsel has notified counsel for Amicus FASD of its option to participate but has not received a response. The District has also filed a Motion to Tax Appellate Costs.

On January 20, 2022, the Court denied the Motions for Certification of Conflict and Great Public Importance filed by Martin County and SFWMD.

On February 1, 2022, Martin County and SFWMD filed Motions to Stay Issuance of the Mandate. On February 10, 2022, the District filed a Response opposing these Motions.

On February 15, 2022, the Court denied the Motions to Stay Issuance of the Mandate.

On February 18, 2022, Martin County and SFWMD filed Notices to Invoke the Discretionary Jurisdiction of the Florida Supreme Court.

On February 28, 2022, Martin County and SFWMD filed their jurisdictional briefs.

On March 4, 2022, the District Court of Appeal issued its Mandate, which remands the case to the Circuit Court for entry of summary judgment in favor of the District.

On March 24, 2022, the District filed its Brief on Jurisdiction opposing jurisdiction of the Florida Supreme Court against Martin County and also SFWMD.

On July 20, 2022, the Florida Supreme Court declined jurisdiction to hear the matter, thereby upholding the Appellate Court decision that the District had properly imposed a special assessment against Martin County and South Florida Water Management District.

On August 19, 2022, a Supplemental Final Judgment Taxing Costs was rendered in favor of the District.

On July 15, 2022, pursuant to the Appellate Court’s mandate, Final Summary Judgment was entered in favor of the District.

RESOLUTION 2022-09

RESOLUTION OF THE BOARD OF SUPERVISORS OF HOBE-ST. LUCIE
CONSERVANCY DISTRICT APPROVING THE FIRST AMENDED
WATER CONTROL PLAN FOR UNIT OF DEVELOPMENT NO. 1A

WHEREAS, HOBE-ST. LUCIE CONSERVANCY DISTRICT is an independent special district duly organized and validly existing under the Constitution and the Laws of the State of Florida, including applicable provisions of Chapter 298, Florida Statutes, as amended, and Chapter 2005-239, Laws of Florida as amended and supplemented (together the "Act"); and

WHEREAS, HOBE-ST. LUCIE CONSERVANCY DISTRICT'S Board of Supervisors in accordance with the provisions of Chapter 2005-239, Laws of Florida as further amended and supplemented, and Chapter 298, F.S., as amended, previously adopted the Water Control Plan for Unit of Development No. 1A dated June 22, 2022; and

WHEREAS, the First Amended Water Control Plan incorporates facilities that Hobe-St. Lucie Conservancy District intends to commence implementing within five (5) years thereby bringing the Water Control Plan ("Plan") into compliance with Section 298.225(3)(g), F.S., which requires the Water Control Plan to include a "detailed description of the facilities and services that the water control district plans to provide within five (5) years;" and

WHEREAS, in accordance with Section 298.301(1) and Section 298.225(8), F.S., and Chapter 2005-239, Laws of Florida, as amended, Hobe-St. Lucie Conservancy District's Board of Supervisors has the power to adopt as well as to change, alter or amend a previously approved plan by adoption of a Resolution, provided that, the plan or amendment does "not result in the revision of the district's current plan or require the increase of any levy of assessments or taxes beyond the maximum amount previously authorized by general law, special law, or judicial proceeding, a change in the use of said assessments or taxes or substantial change to district facilities," or that it

is a minor, insubstantial amendment to district plans or engineer's reports, and such amendments or reports may be adopted by resolution of the Board of Supervisors. "Minor, insubstantial amendments include amendments to the water control plan which replace, relocate, reconstruct, or improve and upgrade district facilities and operations consistent with the adopted water control plan, but which do not require increasing assessments beyond the maximum amount authorized by law, or amendments to engineer's reports which do not increase the total assessment of benefits"; and;

WHEREAS, HOBE-ST. LUCIE CONSERVANCY DISTRICT'S Engineer has prepared and submitted a proposed First Amended Water Control Plan for Hobe-St. Lucie Conservancy District Unit of Development No. 1A, a copy of which is attached hereto and identified as Exhibit "A", and further, has submitted an Engineer's certification, a copy of which is attached hereto and identified as Exhibit "B," certifying that said proposed First Amended Water Control Plan for Unit of Development No. 1A complies with the criteria set forth in Section 298.301(1), Section 298.225(8) F.S. and Chapter 2005-239, Laws of Florida, as amended.

NOW, THEREFORE, be it resolved by the Board of Supervisors of HOBE-ST. LUCIE CONSERVANCY DISTRICT as follows:

1. The Board finds that HOBE-ST. LUCIE CONSERVANCY DISTRICT's Engineer has certified the First Amended Water Control Plan for HOBE-ST. LUCIE CONSERVANCY DISTRICT Unit of Development No. 1A complies with the criteria set forth in Section 298.301(1), Section 298.225(8) F.S. and Chapter 2005-239, Laws of Florida, as amended.

2. The First Amended Water Control Plan for HOBE-ST. LUCIE CONSERVANCY DISTRICT Unit of Development No. 1A is hereby approved and adopted.

3. The Board of Supervisors of HOBE-ST. LUCIE CONSERVANCY DISTRICT hereby authorizes all appropriate action necessary to be taken to effectuate the binding effect of the First Amended Water Control Plan for HOBE-ST. LUCIE CONSERVANCY DISTRICT Unit of Development No. 1A upon the owners of all real property located within said District, including their successors and assigns.

4. If any revision of this Resolution shall be held or deemed to be illegal, inoperative or unenforceable in any contexts, the same shall not affect any other provision herein or render any other provision hereof (or such provision of any other context), invalid, inoperative or unenforceable to an extent whatsoever.

5. This Resolution shall be filed with the Secretary of HOBE-ST. LUCIE CONSERVANCY DISTRICT.

6. All Resolutions and parts of Resolutions in conflict herewith are hereby repealed.

7. This Resolution shall take effect immediately upon its adoption.

THIS RESOLUTION PASSED AND WAS ADOPTED BY THE BOARD OF SUPERVISORS OF HOBE-ST. LUCIE CONSERVANCY DISTRICT ON SEPTEMBER 28, 2022.

HOBE-ST. LUCIE CONSERVANCY
DISTRICT

(DISTRICT SEAL)

By: _____
President

ATTEST:

By: _____
Secretary

[Date]

Board of Supervisors
Hobe-St. Lucie Conservancy District
c/o Special District Services, Inc.
2501A Burns Road
Palm Beach Gardens, Fla. 33401

RE: FIRST AMENDED WATER CONTROL PLAN
MINOR AMENDMENT –UNIT OF DEVELOPMENT 1A

Dear Board of Supervisors:

Please be advised that in accordance with Section 298.301(1), Section 298.225(8), F.S. and Chapter 2005-239 Laws of Florida, as amended, I hereby certify that all the land subject to the previously adopted Plan for Unit of Development No. 1A to the extent that said lands are affected by the First Amended Water Control Plan for Unit of Development No. 1A (“Plan”), comply with the criteria set forth in Section 298.225(8), F.S., and comply with the criteria set forth in Chapter 2005-239 Laws of Florida, as amended, wherein the Amendment “does not result in a revision of the District’s current Plan to require the alteration or increase of any levy of assessments or taxes beyond the maximum amount previously authorized by general law, special law or judicial proceeding, a change in the use of said assessments or taxes or substantial change to District facilities,” and that it is a minor, insubstantial Amendment to District Plans. Minor, insubstantial Amendments include Amendments to the Plan, which replace, relocate, reconstruct, or improve an upgrade in District facilities and operations consistent with the adopted Plan, which do not require increasing assessments beyond the maximum authorized by law, or amendments to engineers reports which do not increase the total assessment of benefits.

I further certify that in accordance with the provisions of Chapter 99-473, Laws of Florida, that all land benefited by the improvements provided for in the original Plan receives the same or greater benefits as previously assessed and that the estimated cost of implementing the Plan, as amended, does not exceed the total benefits assessed in the manner provided by law.

XXXXXXXXXX
FL P.E. xxxxxx
Date: _____