



**HOBE-ST. LUCIE
CONSERVANCY DISTRICT**

MARTIN COUNTY

**BOARD OF SUPERVISORS MEETING
MAY 3, 2023
11:00 A.M.**

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

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561.630.4922 Telephone
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AGENDA
HOBE-ST. LUCIE CONSERVANCY DISTRICT
Hobe Sound Polo Club
2935 SE Bridge Road
Hobe Sound, Florida 33455
BOARD OF SUPERVISORS MEETING
May 3, 2023
11:00 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. November 16, 2022 Board of Supervisors Board Meeting.....Page 2
- G. Old Business
 - 1. Update Regarding Martin County Litigation
 - 2. Status Update Regarding RG Reserve Pipe Permit
 - 3. Status Update Regarding Howe Holdings Agreements
- H. New Business
 - 1. Discussion Regarding Moving Unit 2 Construction Funds to SouthState Bank
 - 2. Discussion Regarding South Florida Water Management District Delinquent Assessments
- 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

Miscellaneous Notices

Published in Press Journal on April 18, 2023

Location

Indian River County, Florida

Notice Text

HOBE-ST. LUCIE CONSERVANCY DISTRICT NOTICE OF CHANGE OF DATE OF REGULAR BOARD MEETING NOTICE IS HEREBY GIVEN that the Hobe-St. Lucie Conservancy District ("District") will hold a Regular Board Meeting ("Meeting") at 11:00 a.m. on May 3, 2023, at the Hobe Sound Polo Club located at 2935 SE Bridge Road, Hobe Sound, Florida 33455, instead of April 26, 2023, as previously advertised. The purpose of the Regular Board Meeting is to transact any business to properly come before the Board. A copy of the Agenda for this meeting may be obtained from the District's website at www.hobestluciecd.org or by contacting the District Manager at 561-630-4922 and/or toll free at 1-877-737-4922. The Meeting 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 this Meeting, such person will need a record of the proceedings and such person may need to ensure 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 this Meeting 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 Meeting. Meetings may be cancelled from time to time without advertised notice. Hobe-St. Lucie Conservancy District www.hobestluciecd.org Pub: April 18, 2023 TCN5663877

MINUTES OF THE BOARD OF SUPERVISORS MEETING
OF HOBE-ST. LUCIE CONSERVANCY DISTRICT
NOVEMBER 16, 2022

Pursuant to the above Notice, the Board of Supervisors of Hobe-St. Lucie Conservancy District held its Board of Supervisors Meeting on November 16, 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 Mr. Ray Spears of The Grassroots Corp.

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

The Board requested the update on Irrigation Agreements to be added to the Agenda under Old Business.

COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

None.

APPROVAL OF MINUTES

A motion was made by Mr. Brown, seconded by Mr. Weinberg and unanimously passed approving the Minutes of the October 13, 2022 Board of Supervisors Meeting.

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).

The Attorney stated that the Trial Court had entered a Final Judgment in favor of Pal-Mar Water Control District which was a companion party in the Trial Court.

It was discussed that the District Manager reported no assessments had been paid by South Florida Water Control District or Martin County.

2. Update Regarding RG Reserve Pipe Permit Application

The District Engineer stated that RG Reserve had previously 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 indicated he had been contacted by a Consultant of RG Reserve who acknowledged the need for the Outfall and indicated a willingness to pay for the adverse effects.

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 directed the charges be sent to Howe Holdings for payment with a copy sent to Thomas Producer based on the circumstances.

The District Engineer indicated he was still uncertain how the electric is being paid.

There followed discussion by the Board regarding the project. The District Engineer was directed to continue to follow up.

4. Irrigation Agreements

a. Bridgeview Farms

The District Attorney indicated the Irrigation Agreement with Bridgeview Farms was executed subject to payment of the District's Attorney and Engineer fees.

b. Bedner Family Enterprises

The District Attorney indicated the Irrigation Agreement with Bedner Family Enterprises was executed subject to payment of the District's Attorney and Engineering fees.

c. Canopus Sound

The District Attorney indicated the Irrigation Agreement with Canopus Sound was executed subject to payment of the District's Attorney and Engineer fees. The Attorney further stated the representative from Canopus Sound had requested the Agreement be withdrawn. It was the consensus of the Board to withdraw approval of the Irrigation Agreement subject to payment of the District's Engineering and Attorney fees.

NEW BUSINESS

1. Consider Resolution 2022-10 – Adopting a Fiscal Year 2021-2022 Amended Budget.

The District Manager presented the Fiscal Year 2021-2022 Amended Budget.

The District Engineer explained the proposed revisions and the Final Amended Expenses and Maintenance Expenses in the subject Fiscal Year 2021-2022 Amended Budget.

Following discussion by the Board, a motion was made by Mr. Weinberg, seconded by Mr. Brown and unanimously passed approving Resolution No. 2022-10 Adopting the Fiscal Year 2021-2022 Amended Budget, as Amended:

A RESOLUTION OF THE BOARD OF SUPERVISORS OF HOBE-ST. LUCIE
CONSERVANCY DISTRICT AUTHORIZING AND ADOPTING AN AMENDED
FINAL FISCAL YEAR 2021/2022 BUDGET AS AMENDED (“AMENDED BUDGET
AS AMENDED”) PURSUANT TO CHAPTER 189 FLORIDA STATUTES.
AND PROVIDING AN EFFECTIVE DATE.

(Copy filed in District Records)

ADMINISTRATIVE MATTERS

1. District Engineer’s Report

The District Engineer commented on the Unit 1A Letter Modification to the Water Use Permit. He commented on the problem with calibrating Pump 1 and Pump 2.

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.

The Attorney followed up on the prior request by Mr. Terrence McCarthy who had requested authorization to use a District-owned right-of-way to access his property.

The Board declined the request and directed that the location of the fence/gate be relocated totally on the District property.

The Board requested District Staff to respond to Mr. McCarthy’s request.

3. Manager’s Report

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

The District Manager confirmed no monies had been received from SFWMD or Martin County from past assessments.

The District Manager confirmed cancelling of the December 2022 Board of Supervisors Meeting.

4. Field Operations Report

Mr. Spears commented on the Grant submittal for the Unit 3 Water Control Structure. It was reported the work has been performed and the Invoice was submitted.

Mr. Spears also commented on a glider incident involving emergency access to the District's Right of Way.

SUPERVISOR COMMENTS

Mr. Brown indicated he had been contacted by a Landowner located in the Balance of the District as to the District's assessments. The District Engineer explained that the Landowners only Outfall was through Unit 2.

NEXT MEETING

The December 2022 Board of Supervisors' Meeting was cancelled.

ADJOURN

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

President

Secretary