

MEETING MINUTES MARCH 9, 2017

Opening: A public meeting of the Fellsmere Water Control District was called to order at 10:00 a.m. on March 9, 2017 held at the office of the District 109 N. Willow Street, Fellsmere, Florida.

Richard Carnell called the meeting to order.

Supervisor's present were President Richard Carnell, Mike Monroe and Jeff Bolling.

Others present were Michael O'Haire, Marvin Carter, George Simons, Rodney Tillman, and Joyce Hertel.

Richard welcomed guests and apologized for the inconvenience and asked everyone to sign in. Guests were as follows: Bonnie McCall, Wendy Austin, Roger & Brenda Kinsey, Leslie Knoesen, Dylan Reingold, IRC Attorney, Mike Grim, Jim Beckerleg, Richard Riha, Jason Nunemaker, Fellsmere City Manager, Indian River County Commissioner Susan Adams, Karen Ledford, Marlowe Melnyk, Maitland Melnyk, David Melnyk, Bill and Janet King.

President Carnell made an agenda amendment to move the public comments portion of the meeting into the attorneys report.

Approval of Minutes: Mike made motion to approve the minutes of January 12, 2017, Jeff seconded.

Attorney's Report: Michael O'Haire stated that this issue with the roads has been going between the County Attorneys and his office for months. Since FWCD was formed in 1919 this District has never done roads in almost 100 years. The County had a meeting here in Fellsmere with the North County Property Owners Association to discuss the road maintenance. The Water Control District was created to reclaim swamp and marsh areas for farming and residential use. In 1925, the County maintained the roads and the water control district maintained the canals.

Michael stated that he is being told that the County staff is telling the North County Property Owners Association that the delay in signing the agreement is because FWCD won't sign the agreement. That's not true. The road maintenance could have been taken over by the County at any time as they have done since 1925. Mr. O'Haire stated that the District fully supports the landowners in trying to get their roads graded by the County but the legal process has been lengthily.

Mr. O'Haire looking at the latest agreement that Dylan Reingold prepared and he read the verbiage added in the agreement:

"Whereas, it is the intent of the parties not to add any additional roadways to Grader Route No. 3 beyond those described in this restated agreement and that this restated agreement will terminate in no more than five years, at which time the District will grade and maintain the roadways described in the Agreement." The District has never graded roads in almost 100 years. Michael stated that he represents the Indian River Farms Water Control District (IRFWCD) and that all the roads in the south county are maintained by Indian River County. The County has never said that IRFWCD was responsible for the roads and grading. Mr. O'Haire stated that, he believes as a Lawyer, that if a road has been dedicated to public use, it's the County's responsibility to maintain the roads.

Richard welcomed Dylan Reingold Indian River County Attorney. Mr. Reingold stated that he is quite confused right now. The Verbiage that Mr. O'Haire read was not in the recent agreement. This was discussed and it was determined that the District did not have the latest agreement that deleted the verbiage in the whereas clause.: "Whereas, it is the intent of the parties not to add any additional roadways to Grader Route No. 3 beyond those described in this restated agreement and that this restated agreement will terminate in no more than five years, at which time the District will grade and maintain the roadways described in the Agreement."

Mr. Carnell asked Mr. Reingold if that verbiage is in the County's Agreement if not then we should be able to move on past this.

Mr. Reingold replied that the County does not have that verbiage in the agreement he is presenting today.

After reviewing the agreement Mr. Reingold had with him and comparing it to what the District had. It was determined to go with Mr. Reingold's version without the whereas clause.

Public Comments: Richard stated the next issue is Indian River County grading the roads, and which roads the county has added to the grading schedule. If someone would like to speak then please raise your hand and tell us your name and address for the record.

At this time President Carnell opened the meeting for public comments. Karen Ledford, Wendy Austin, Bonnie McCall, Jason Nunemaker, David Melnyk, Mike Grim, Bill King all spoke regarding grading of roads in the future. The public expressed feelings that the roads needed to be graded whatever the cost, and Mrs. Austin stated that she thought that the Ditches could be better maintained.

Mr. Carnell thanked the landowners present for their comments and for coming.

Commissioner Susan Adams addressed the meeting and advised everyone that they would be receiving information regarding the grading of the roads and that there would be a new map

coming out showing everything being graded. Mike Grim advised that the association has formed a committee to work with the District and the County. Mr. Carnell advised him to name a liaison to work with District staff regarding this.

The President closed the public comments.

A Motion was made by Mike Monroe and seconded by Jeff Bolling to go forward with the Interlocal Agreement as presented and adding the new roads to the agreement. Motion carried.

Engineer's Report: George talked about the Phase 6 CDBG for the Wyoming Street area and that there was only one (1) bid. The City of Fellsmere is trying to get the grant writers to agree to cut the project so that it would fit into the budget. He also talked about culverting the Railroad Ditch at Fountains of Fellsmere and that there will be a new permit issued for that when the project resumes.

Marvin presented a drawing and explained the difference between the old boundary legal description and the new boundary legal description that includes the islands and the area at the south end of the Fellsmere Water Management Area.

Treasurer's Report: Rodney advised the Board that the written Treasurer's report is provided in the meeting packet. He pointed out that the money market is \$451,840.31 and the checking account is \$490,633.23. The total amount is now below a million dollars totaling \$924,473.54. Rodney presented several budgets. The one that would be best for the District would entail splitting the District at Lateral U with everything west of Lateral U in one unit and everything east of Lateral U in another unit. At this time, splitting of the District into units was discussed in length. The Engineer from CAI would be taking the lead in preparing the water control plan and spread sheets needed for the public hearings that then would be voted on by the Board.

George added that this process would take longer than thought. It could possibility take up to four months for the process. After a long discussion it was determined that the President, Legal Counsel, Engineer, and Staff will meet at CAI.

It also was discussed that if the District could not be put into units the possibility of a flat rate assessment across the Board for the Budget year 17-18; and also starting the process of splitting the District into units with the process paralleling the upcoming budget year 17-18.

A Motion was made by Mike Monroe seconded by Jeff Bolling empowering President Carnell to work with Staff, Attorney and Engineer to research the process including the drafting and adopting of the appropriate resolution to consider adoption of a proposed plan or amendment for converting the District into units and to proceed with the process if the time constraints of

F.S. Chapter 298.353 and F.S. Chapter 298.301 can be met prior to submittal date of Budget to I.R. Tax Collector and I.R. Property Appraiser. If it is determined by the President, Attorney and Engineer that it is advisable to implement the District infrastructure and service plans by units, the President, Attorney and Engineer will prepare a Resolution as outlined in F.S. Chapter 298.301 proposing the adoption or amendment of the district's water control plan and file it with the District Secretary. The motion carried unanimously.

Rodney stated that regardless of the Inter Governmental Agreement with the Indian River County the District would be maintaining the roads and canals from the side it has historically for the past 99 years. Michael replied yes that the District has the prescriptive right to do so.

Supervisors Comments: no comments at this time.

Meeting was adjourned at 11:45 a.m. by Richard Carnell.

The next general meeting will be on, May 11, 2017 Landowners Meeting, July 13, 2017, September 14, 2017 and November 9, 2017 @ 10:00 a.m. at the District office.

Richard Carnell President
Board of Supervisors

Joyce Hertel
Secretary