

Sebastian Inlet District
Regular Commission Meeting
Wednesday, 4 PM, December 14, 2022
District Office
114 Sixth Avenue
Indialantic, FL 32903

Minutes

Present at the meeting were: Chairman Jenny Lawton Seal, Commissioner Beth Mitchell (Vice Chair) and Commissioner Michael Rowland (Secretary/Treasurer), Commissioner David Barney and Commissioner Lisa Frazier. Also, in attendance were: Executive Director James Gray, Contracts & Accounting Manager Dave Kershaw, SID Public Outreach Associate Ed Garland, SID Legal Counsel Jack Kirschenbaum, Steven Jachec (ATM), Kenneth Torres (SISP), Jonathan Linder (Brevard Mosquito Control), Sharon Niemczyk (ESA), Elizabeth Dost (ESA), Tommy King (Rio-Bak), and members of the public: Lisa Trentini, Harvey Kornfeld, Mercy Yaniz, Tuck Ferrell (who was also representing Laura Schmitt), Susie Wilson Hooker, Joe Pacher, Joanna Dunlap, Klaus Balsmann, Cheryl Kippes, and one illegible signature without an address listed.

Under Agenda Item I

Call to Order – Chairman Lawton Seal called the meeting to order at 4 p.m.

Under Agenda Item II

Welcome Re-Elected Commissioner Frazier and New Commissioner Barney

A. Oath of Office

Mr. Kirschenbaum swore in re-elected Commissioner Frazier and newly elected Commissioner Barney

B. Filing of Commissioner Bonds

After Commissioners Frazier and Barney were sworn in, Mr. Gray asked the commissioners to sign the bonds after the Commission meeting concluded.

Under Agenda Item III

Election of Officers

Commissioner Frazier made a motion to retain Commissioner Lawton Seal as Chairman. Commissioner Rowland seconded the motion. **The motion carried 5-0.**

Commissioner Barney made a motion to retain Commissioner Mitchell as Vice Chair. Commissioner Rowland seconded the motion. **The motion carried 5-0.**

Commissioner Frazier made a motion to retain Commissioner Rowland as Secretary/Treasurer. Vice Chair Mitchell seconded the motion. **The motion carried 5-0.**

Vice Chair Mitchell made a motion to modify the Consent Agenda by moving Consent Agenda Item B-2 (Upland Sand Truck Haul and Beach Placement Project) to the top of the agenda to accommodate a large contingent of residents attending the meeting seeking to speak to this topic. Commissioner Rowland seconded the motion. **The motion carried 5-0.**

Mr. Gray, in response to the Commissions' agenda change, gave a PowerPoint presentation highlighting Hurricane Nicole's significant impacts on Sector 1 and 2 beaches. There were minor impacts to R-1 to R-9. Major erosion occurred between R-9 and R-17, Mr. Gray said. Total observed calculated sand losses are between 30,000 and 40,000 cubic yards between R-9 and R17, which factors in about 20% natural sand recovery. Combined with other storm losses this year, the sand losses may be as high as 70,000 cubic yards, Mr. Gray said.

Vice Chairman Mitchell asked where the District stood on its annual surveys. Mr. Gray said the Brevard County section is complete, but poor sea conditions have delayed completion of the Indian River County surveys. Once the surveys are completed, actual sand volume losses from the storms can be calculated.

Mr. Barney asked if the recent northeast swell caused additional damage. Mr. Gray responded that he will be visiting the beach next week but said he expects that the swell may have impacted sand recovery. Land & Sea conducts the surveys for the District, Mr. Gray said, responding to Ms. Trentini, who spoke from the audience. Commissioner Frazier requested a call to order so that residents would reserve their questions to the "public comments" portion of the meeting.

Mr. Gray then addressed Consent Agenda item B-2, the 2022/23 Upland Sand Truck Haul and Beach Placement Project. Mr. Gray said that on October 14, 2022, the District solicited bids for the 2022/23 Upland Sand Truck Haul and Beach Placement Project. As part of the District's ongoing implementation of the Inlet Management Plan, the project will place approximately 30,000 cubic yards of approved beach compatible sand from an upland sand mine to construct a modest berm and dune feature south of the inlet in Indian River County between FDEP monuments R-10 to R-17. The District requested a Base Bid for the placement of 30,000 cubic yards of sand from R-10 – R-17 and an optional bid alternate for the placement of an additional 5,000 cubic yards of sand placement between R-10 and R-14. Plan. Rio-Bak was the lowest qualified bidder at \$1,374,750 for the base bid. Rio-Bak was not recommended for the alternate bid (\$261,000). Funding for the project is budgeted and available under Sand Trap Dredging, Construction Local and Construction Programs, Storm Management.

Responding to Vice Chair Mitchell, Mr. Gray said the District has applied for 50 percent cost-share funding from the state of Florida. Commissioner Rowland asked whether the District could also apply for cost-sharing funding for losses due to hurricanes. Mr. Gray said the District is not precluded from receiving money for storm management. Mr. Gray said Senate Bill 4-A, which is on the Governor's desk for consideration, could be a possible funding source for the District to replace storm losses. Mr. Gray said there are caveats and questions that can't yet be answered because the bill was just approved today. Mr. Gray said it is too early to say how much money will be available for each county. However, but the bill, if carried, will make available hundreds of millions of dollars. Other possible funding sources are from FEMA.

Responding to Commissioner Barney's questions, Mr. Gray said Rio-Bak is charging \$39.39 per cubic yard of sand. The sand will be sourced from Stewart's Materials in Fort Pierce. Mr. Gray and staff visited the Stewart mine to inspect the sand and speak with the owner about the District's project needs.

Vice Chairman Mitchell made a motion to approve staff's recommendation to approve the bid award. Commissioner Rowland seconded the motion. **The motion carried 5-0.**

Chairman Lawton Seal opened the meeting to public comments. Resident Joanna Dunlap of 9485 Frangipani Drive, Vero Beach, asked what the District's chartered responsibility is for managing the sand. She said she understood that the District would place sand often enough to prevent the type of damage she was seeing. Mr. Kirschenbaum explained to Ms. Dunlap that the Public Comment portion of the meeting is not a "Question and Answer" session. He said that the staff will take down her questions as part of the public record and will answer them. He urged the Commission not to engage in a "Question and Answer" format. The better course is for the District to gather names and addresses, research answers and respond accordingly.

Mr. Ferrell, representing the North Beach Civic Association, said there are a lot of concerns about the dune escarpment, especially in the Ambersand area. He is concerned about the turtle nesting area, shorebirds and people who live there. He said he would appreciate anything the District can do to help. He said Mr. Gray has been helpful in the past.

Resident Wilson Hooker, 13030 Highway A1A, Ambersand, asked if she will receive sand and asked when this would occur. Mr. Gray said 30,000 cubic yards of sand will be placed across 7,000 feet of beach, which includes her residence. Mr. Gray reiterated that this project is not hurricane recovery. This is part of the District's bypassing requirements within its Inlet Management Plan. Work is expected to begin the first week of January. Ms. Wilson Hooker also requested white sand. She said sand placed there previously dredged was black.

Commissioner Frazier requested that Mr. Gray work with his staff to provide additional project information on its website. Mr. Gray said that expanded information will be added to the website. He also requested that members of the public provide their email addresses so that the District can contact them with information and project updates.

Under Agenda Item IV

Approval of Minutes of the Regular Commission Meeting of October 12, 2022

Commissioner Rowland made a motion to approve the minutes. Vice Chairman Mitchell seconded the motion. **The motion carried 5-0.**

Under Agenda Item V

Presentations

- A. Potential Partnership with Brevard County Mosquito Control to use current DMMA sediments for impoundment repairs – Johnathan Linder
Mr. Gray said there is approximately 9,000 cubic yards of material that is not compatible for the beach currently stored within the DMMA. He approached various agencies to determine if the material could be used for another purpose. He said Brevard County Mosquito Control is interested in the material to repair hurricane damaged mosquito impoundments. He introduced Mr. Linder, a supervising biologist and environmental coordinator with Brevard County Mosquito Control. Mr. Linder gave a PowerPoint presentation that illustrated how his agency, in partnership with the District, could save taxpayers about \$100,000 by using the DMMA material to repair the mosquito impoundments. Mr. Gray added that the next steps would be for the District to enter into an interlocal agreement with Mosquito Control and collaborate with Sebastian Inlet State Park. The Commission gave its support to the endeavor and Mr. Gray will provide additional information at a future meeting.

- B. Navigating the Treacherous Waters of Florida's Ethics, Sunshine and Public Record Laws – Jack Kirschenbaum
Mr. Kirschenbaum gave the Commission a refresher course about Florida's ethics laws as it pertains to elected officials. Mr. Kirschenbaum provided the Commissioners with handouts and explained ethics implications, Florida's Sunshine Law, Public Record Law, the impacts of commenting on social media posts. Vice Chairman Mitchell asked Mr. Kirschenbaum if District policies existed beyond what is contained within the District's Charter and whether meeting attendance for Commissioners is either outlined in the charter, an official policy or an ethics question. Mr. Kirschenbaum said he isn't aware of a written policy other than a resolution stating that District employment policies follow Brevard County's policies. He added that there are state laws regarding misfeasance and malfeasance and the ability of the governor to replace members of

special districts and doubted that the Commission could adopt a resolution concerning Commissioner attendance policies greater than what is in the District Charter.

Under Agenda Item VI

Information and Discussion Agenda

A. Media and Information

No discussion.

B. Executive Director's Reports

1. 2022-2023 Commission Meeting Schedule

Mr. Gray provided the Commission with a Commission meeting schedule for fiscal year 2022-2023 and stated that the March 8, 2023 and September 13, 2023 meetings are at the North Indian River County Library.

2. Summary of Hurricane Nicole Impacts to Beaches, SISP and Jetties

Mr. Gray presented PowerPoint images of some of the damage caused by Hurricane Nicole. He said the north jetty has been closed since the hurricane due to missing or damaged grates. Mr. Torres indicated that he is updating his hurricane watch/warning protocols specific to jetty grates removal prior to storms. Mr. Gray said the District is responsible for navigation and the jetty, but SISP is responsible for pedestrian access, which includes the grates. Mr. Gray said the storm caused sinkholes and armor stone losses along the north jetty. He said the sinkhole repairs and armor stone replacement are the District's responsibility. Mr. Gray said he is collaborating with contracted engineers to make repairs. Mr. Gray also indicated that similar sinkholes occurred in 2004, which the District repaired. He said the District can make the repairs under an Emergency Authorization.

At 5:39 PM, Commissioner Frazier excused herself and left the meeting due to another engagement she had to attend.

Mr. Gray said he believes the north jetty lost about 100 feet of armor stone, but the situation did not create a navigation issue. Survey work will be conducted to determine where the missing rock has relocated. Mr. Gray said FEMA has visited the jetty to inspect damage and that FEMA, and Florida Division of Emergency Management are aware of the issues.

Mr. Gray said that the new shoreline stabilization project successfully protected the north and south shorelines. He added that additional erosion has occurred at Coconut Point.

3. Update on Special Legislative Session December 12-16, 2022

Mr. Gray reminded the Commission that that Senate Bill 4A is on the Governor's desk for consideration. Vice Chair Mitchell said it sounds like the funding numbers are vague but that Mr. Gray has done an excellent job positioning the District for funding. Mr. Gray said he is working with the District's lobbyists daily on funding opportunities. Vice Chair Mitchell asked what the District's role will be in repairing storm damages since the District is in a position to facilitate repairs. Mr. Gray said he anticipates the District's role will be the local sponsor working in partnership with the State, Indian River County and other agencies.

4. Discussion of Consent Agenda

Mr. Gray reviewed the Consent Agenda items for the Commission's approval. (Details are found under Item XI).

Under Agenda Item VII

Public Outreach Activities

Mr. Garland provided an overview of recent and upcoming public outreach activities, including a planned interview with Dr. Grant Gilmore for an article about fish species in the inlet.

Under Agenda Item VIII

Park Matters – Ken Torres

Mr. Torres said Sebastian Inlet State Park is waiting for the arrival of grates and clips needed to reopen the north jetty.

Under Agenda Item IX

Legal Counsel Update — Jack Kirschenbaum (Gray Robinson)

Nothing to report.

Under Item X

Public Comment Period

Public comments were moved higher on the agenda so that the public could speak to Item B-2 in the Consent Agenda.

Under Item XI

Consent Agenda

A. Authorized Work for Commission Review:

1. Summerlin's Marine Construction, LLC Work Order No. 2223-003-Summerlin channel Marker Repairs
Mr. Gray authorized Summerlin's Marine Construction, LLC to repair Sebastian Inlet Channel Markers Red 6, Red 16, and Red 22 and a seagrass sign that were damaged by Hurricane Ian. Work Order No. 2223-003-Summerlin totals \$5,400.

B. Recommended for Approval

1. Work Order No. 2223-004 – Balmoral – The Balmoral Group, LLC. Regional Economic Benefits of Sebastian Inlet – 2023 Update

Mr. Gray said that on September 9, 2020, the Commission selected The Balmoral Group, LLC. (Balmoral) to assist the District in updating the Regional Economic Benefits of Sebastian Inlet study. As a result of Covid-19, staff delayed proceeding forward with an economic benefits update as it was unclear how the pandemic would impact the local economy.

Mr. Gray said that the purpose of this agenda item is for the Board to approve Work Order No. 2223-004-Balmoral in the amount of \$125,000 to provide contractual service to support the development of a 2023 Update to Regional Economics Benefits of Sebastian Inlet.

The 2023 update aims to estimate the quantitative and qualitative economic benefits accruing within the portions of Brevard and Indian River Counties resulting from the District maintaining navigation on the Sebastian Inlet.

Balmoral will produce a final report and an informational digital summary that will be available to the public, Mr. Gray said. Work is expected to be completed by August 2023.

Vice Chairman Mitchell requested that the summary include a breakdown of value by county, such as the inlet's added value to real estate, which would be helpful for future Commission discussions. Mr. Barney asked whether the summary would include all GIS data. Mr. Gray informed the Commissioners that the summary will include all raw data used for the analysis.

2. Award of Bid – 2022/23 Upland Sand Truck Haul and Beach Placement Project
This item was moved to the top of the agenda to accommodate interested members of the public.
3. Work Order No. 2223-005 ATM, Applied Technology and Management, Inc. – 2022-23 Truck Haul Project Construction Support.

Mr. Gray said that under this work order, ATM will provide regulatory, engineering, and construction support related to the 2022/23 Upland Sand Truck Haul and Beach Placement Project. The total amount of the work order is \$31,272.60 and will be invoiced on a time-and-materials basis only for actual expended effort.

4. Work Order No. 2223-006-ESA, Environmental Science Associates Post Hurricane Nicole – North Jetty Repair Services

Mr. Gray said ESA is contracted to assist with biological and support services with regard to the jetties and shoreline. ESA provides engineering, construction and construction support related to only the jetty splash apron and adjacent beach repairs known at this time. If the engineering evaluations (sub-surface investigations), included under this work order, identifies additional damages to the north jetty staff will notify the Board and provide a recommendation to address the repairs. Construction related to the replacement of armor stone is not included in Work Order No. 2223-006-ESA and will be addressed in future work orders.

Mr. Gray said the Storm Management fund will cover the costs but will be exhausted. The District will seek additional funding opportunities.

The total amount of the work order is \$165,873 and will be invoiced on a time-and-materials basis only for actual expended effort.

5. Resolution Authorizing Executive Director to apply for available State and Federal funding to implement District projects – Resolution No. 12.12.22.01

Resolution No. 12-14-22-01 supports legislation that provides cost-sharing opportunities to the District and authorizes the District Executive Director to request and apply for available State and Federal funding to implement projects. Mr. Kirschenbaum said this resolution, if passed, will enhance Mr. Gray's ability to do his job.

Vice Chair Mitchell made a motion to approve the Consent Agenda. Commissioner Rowland seconded the motion. **The motion passed 4-0.**

Under Item XII
Commissioner Items

Commissioner Barney -Merry Christmas and Happy New Year.

Vice Chair Mitchell – Relayed her concerns about people being upset about recent sand loss and expects future dialogue about this topic. Mr. Kirschenbaum said that Mr. Gray should stay with the mantra that the District is responsible for sand bypassing and not storm repairs. He suggested Mr. Gray work with Mr. Garland to get ahead of the issue by publishing outreach materials.

Commissioner Rowland – Welcomed Commissioner Barney to the Commission.

Commissioner Frazier – Left the meeting early.

Chairman Lawton Seal – Nothing.

Under Item XIII

Unfinished Business

No Unfinished business

Under Item XIV

New Business

Adjournment — Chairman Lawton Seal adjourned the meeting at 6:19 p.m.



Secretary/Treasurer

Date


