

Sebastian Inlet Tax District

Wednesday, May 13, 2020 at 4:00 p.m.

Regular Commission Meeting

Virtual via Zoom and in accordance with Resolution No. 03-30-20-1

Minutes

Present at the meeting were Chairman Jenny Lawton Seal, Vice Chairman Michael Rowland, Commissioner Chris Hendricks, Commissioner Beth Mitchell and Commissioner Lisa Frazier. Also in attendance were: Executive Director James Gray, Contracts & Accounting Manager Dave Kershaw, Public Information Associate Michelle Malyn, SID Legal Counsel Jack Kirschenbaum, Sebastian Inlet State Park Manager Jennifer Roberts, Christine Noll-Rhan (CRI), Bryan Flynn (ESA), Charles Beam, Don Deis (Atkins), Gary Zarillo (Florida Tech), Peter Seidle (ATM), Peter Fallon (homeowner), Cathy Ferrell (homeowner/NBCA), Margaret Sheffield (court reporter).

Under Agenda Item I

Call to Order – Chairman Lawton Seal called the meeting to order at 4:04 p.m. and asked SID Legal Counsel Kirschenbaum to read the Zoom meeting instructions for participants and the general public.

Chairman Lawton Seal conducted roll call and noted for the record that all Commissioners were present.

Under Agenda Item II

Approval of the Minutes of the regular Commission meeting of March 11, 2020. Commissioner Mitchell made a motion to approve the minutes. Commissioner Rowland seconded the motion. **Motion carried 5-0.**

Approval of the Minutes of the special call Commission meeting of March 30, 2020. Commissioner Mitchell made a motion to approve the minutes. Commissioner Rowland seconded the motion. **Motion carried 5-0.**

Chairman Lawton Seal requested that Agenda be amended to move Item IV, Presentation of Independent Auditor's Report for Sebastian Inlet District FY2019 Financial Statements - Christine Noll-Rhan, Carr, Riggs & Ingram CPAs before Agenda Item III. The Board approved the request and the agenda was amended.

Under Agenda Item IV

Presentation of Independent Auditor's Report for Sebastian Inlet District FY2019 Financial Statements - Christine Noll-Rhan, Carr, Riggs & Ingram CPAs

Mr. Kershaw introduced Christine Noll-Rhan, CRI and noted that included in the Commission packet was a letter detailing the findings of a quality control peer review of CRI. The firm received a pass rating with no deficiencies, the highest peer rating possible.

As to the audit FYE2019, Mr. Kershaw reported that because the District had received and expended FDEP grant funding in excess of \$750,000, a single audit was required. No issues with the single audit. As part of the audit process there were two findings that CRI considered significant deficiencies. First deficiency, management approvals of the journal entries that Mr. Kershaw makes in QuickBooks. That has already been remedied with recommended procedure now in place. The second deficiency related to the late submission of one report to FDEP.

Ms. Noll-Rhan reviewed the audit in detail for the benefit of the Commissioners. (see attached audit) In addition to the items noted by Mr. Kershaw, Ms. Noll-Rhan highlighted a recommendation for the Commission to review travel-related reimbursement policies. Financially, the District continues to be in a good position with well over two years of expenses in reserves, in general terms, and also investments are in the form of CDs with rates locked in and not affected by current market unrest due to COVID19. Commissioner Hendricks noted internal control comments on page 49 and 50, indicating the word "not" should be inserted before "material weaknesses" with an overall option that internal controls were adequate. Ms. Noll-Rhan verified that should be changed.

Commissioner Mitchell made a motion to accept the FYE2019 Audit as presented and with the change noted. Commissioner Rowland seconded the motion. **Motion carried 5-0.**

Under Agenda Item III

Information and Discussion Agenda

A. Media and Information – No media packet this month.

B. Executive Director's Reports

1. COVID19 Discussion

On May 8, 2020, Governor DeSantis issued Executive Order 20-114, which extends Executive Order 20-52 (State of Emergency exists in Florida) for 60 days, until July 9, 2020. Relative to the District, we have been following guidance from the Governor's office, FDOH, and CDC and staff will continue to work remotely. Mr. Gray noted that working remotely had gone well to date. He is working on a full office reopening schedule with staff but expects to continue to partially staff the office until at least June 1, 2020 as we have been on a rotating basis. The District will also be providing staff with additional personal protection equipment and cleaning supplies, when available, to maintain a safe and healthy work environment.

Commissioner Mitchell asked if the office would be opening to the public initially and Mr. Gray indicated that it had been discussed. With little foot traffic, access to the office by anyone other than staff will be on an appointment only basis.

2. Update on North and South Inlet Shoreline Repairs

Mr. Gray reported that Environmental Science Associates (ESA) is proceeding with design option #2 for North Shoreline Repairs, and has now submitted permit applications for both the North and South Shoreline projects to US Army Corps of Engineers (USACE) and St. John's River Water Management District (SJRWMD) for review. Mr. Gray has been working with State Park Manager Jennifer Roberts. SISP will be providing a letter of support to forward to both regulatory agencies. Mr. Gray has also begun working with ESA on construction drawings, technical specifications and the bidding documents. Although permits were submitted separately, Mr. Gray intends to combine both projects into a single project for bidding purposes to take advantage of economies of scale.

3. Update on March/April Hydrographic Surveys

Mr. Gray reported that Land & Sea Surveying had completed the entire data set which includes the monitoring, hydrographic and multi-beam monitoring along the southern limits of district boundaries as well as coastal limits, north and south, and the inlet backwaters. That has all been completed and we have submitted the surveys to Dr. Zarillo at Florida Tech so he can begin updating and developing the 2020 State of the Inlet Report.

4. Update Post Construction Beach Monitoring

Mr. Gray reported that everything was moving along smoothly relative to monitoring. These are all permit-related requirements based on our last dredge and fill project that requires sea turtle monitoring and offshore biological monitoring. Everything is on schedule. Sea turtle monitoring began March 1 and will continue daily through September. Offshore biological monitoring will be conducted by CSA Ocean Sciences, under contract with ATM, later this month/early June, weather permitting.

5. Update on District Upland/Submerged Easement Renewal

Mr. Gray continues to work with the District's consultant, Coastal Systems International (CSI), who in turn has been working with the State to renew, consolidate, and modify the many upland and submerged easements within the State Park. These easements are necessary in order for the District to fulfill the obligations of its charter. On April 27, 2020, District staff and CSI met with State officials via conference call. Key highlights and updates from that meeting:

1- The State will not require new applications for the expired easements.

2- The State anticipates consolidating the original 10 upland easements down to 3, and 6 submerged easements down to 3 or 4.

3- The District is abandoning two upland easements. The first, the original North shoreline that now lies within the mangroves, and the beach access just north of McLarty Treasure Museum, which the District has never used.

4- All easements will all have the same dates and will expire in 50 years.

Mr. Gray highlighted the benefits of each. Next steps include the FDEP Legal review, which we anticipate will be 45-60 days. Upon receipt of communication from FDEP in that regard, Mr. Gray and Mr. Kirschenbaum will review and bring it back to the Commission at a future meeting for approval.

6. Discussion of Consent Agenda

a. Authorized work for Commission Review: None at this time.

b. Recommended for Approval:

i. Work Order No. 1920-015-GPI, GPI Geospatial Inc.

GPI Geospatial conducts annual aerial imaging services to support the District's permit-required monitoring of the beaches to the north and south of the inlet, as well as seagrasses located within the inlet shoals to the west. The total amount of the work order is \$9,975.00. Funding is budgeted under Mitigation/Monitoring, Account # 5373-314.

ii. Work Order No. 1920-016-GPI, Geospatial Inc.

The proposed work order collects aerial photography necessary for analysis of the inlet sediment budget, morphology, and permit required physical monitoring of the 2018/2019 bypass project area. The total amount of the work order is for a lump sum fee of \$16,400. It has been several years since the District collected oblique imagery of the inlet and channel. This proposal also includes oblique imagery for a more comprehensive data set to assist in future inlet management efforts. Funding is budgeted and available under Aerial Photography, Account # 5371-318.

iii. Work Order No. 1920-017-ATK, Atkins North America, Inc.

The proposed work order provides the continuation of annual aerial and field monitoring of the seagrasses within the flood tidal shoal. Monitoring of key seagrass species in and around the inlet offers a good indicator of the overall health of the lagoon. The District shares our data and findings within the scientific community and regulatory agencies. The total amount of the work order is \$23,810 and will be invoiced on a time-and-materials basis only for actual expended effort. Funding is budgeted and available under Mitigation/Monitoring, Account # 5373-314.

iv. Approval of Agreement – Environmental Science Associates for Engineering and Biological Support Services for Maintenance of the Sebastian Inlet Dredged Material Management Area RFQ No. 2020001

Mr. Gray reported on his ongoing contract negotiations with Environmental Science Associates (ESA). For the District's Dredged Material Management Area (DMMA) to function as intended, regular treatment of nuisance/exotic flora species, monitoring and relocation of state-listed Gopher tortoises, and overall site maintenance is required. In accordance with FS 287.055, on March 11, 2020 the Sebastian Inlet District Commission approved the selection of ESA for engineering and biological support services for maintenance of the Sebastian Inlet DMMA (RFQ No. 202001). Mr. Gray has negotiated standard fee schedules and the "master" agreement with ESA. The fee schedule reflects fair and competitive rates for comparable professional services and tasks. These fees will be the basis for individual project specific work order though out the duration of the agreement. The initial term of the agreement is for a period of five (5) years, with the option of additional five-year renewals, unless terminated by mutual consent. ESA has accepted the "master" agreement and the submitted fee schedule has been accepted by reviewing staff. Funding is budgeted and available under Sand Transfer System/Advanced Studies, DMMA & Maintenance, Account # 5371-326.

v. Response to FDOT Regarding Reconstruction/Replacement of Sebastian Inlet Bridge and its Impact on District Functions

Mr. Gray provided a comprehensive update for the Commission on the status of the Florida Department of Transportation (FDOT) Bridge Replacement project and noted the Memo from Legal

Counsel Kirschenbaum that had been included in Commission Meeting materials for review.

FDOT is currently in the planning phases to determine if the Sebastian Inlet Bridge is in need of reconstruction or replacement. A construction schedule has not been finalized. However, FDOT is anticipating the project to begin within the next 5 years. The District holds fee simple title to the land that is now submerged, located south of the north shore of the Sebastian Inlet and north of the south shore of the inlet where the barrier island previously existed. The current location of the Sebastian Inlet Bridge spans the District's fee simple land.

In 1963, the District granted an easement to the State Road Department, now FOOT, providing access over the its fee simple property for construction and maintenance of the Sebastian Inlet Bridge. Since the 1970s, the State of Florida has operated and maintained the Sebastian Inlet State Park (SISP) which is both on the north and south sides of the Sebastian Inlet. SISP provides recreational opportunities including surfing, fishing, swimming, boating, canoeing, and camping to the public. The District holds easements and rights of way granted by the State of Florida, within the SISP, to conduct programs and projects identified in its charter, including but not limited to sediment bypass. FDOT had contacted the District to determine if the existing Sebastian Inlet Bridge is located within the District's right-of-way (ROW) and qualifies as a Section 4(f) protected resource, as defined in the Federal Highway Administration's regulations, under 23 CFR 771.17.

To be considered a Section 4(f) protected resource, a public park or recreation area must be:

- Publicly owned which can also include permanent easements and long-term leases and
- other public proprietary interest(s);
- Must be open to the public during normal hours of operation;
- The major purpose must be for park or recreation activities; and
- Must be designated or function as a significant park or recreation area.

SISP has already qualified as a Section 4(f) protected resource. Given the importance surrounding FDOT's request of the District, Mr. Gray consulted with Mr. Kirschenbaum to determine if the District will be impacted by the design, construction, and maintenance of a new bridge over the inlet and to assist formulating a response. Mr. Gray also contracted Land & Sea Surveying to provide surveying services to locate the existing Sebastian Inlet Bridge for comparison with the 1963 easement the District granted to FDOT. Surveying services were executed using the Executive Director's spending authority at a cost of \$5,780. As identified in the survey and stated in Mr. Kirschenbaum's April 20, 2020 Memo, it is his opinion that the District meets all the above criteria and thus qualifies as Section 4(f) protected property. Specifically, the District:

- Is a public taxing district and thus the lands under its ownership are publicly owned;
- Lands are open to the public during normal hours of operation;
- Manages dredging projects for recreational navigation, and
- Maintains a significant resource.

Mr. Gray is seeking approval to send a formal response to FDOT; that the proposed project is within the District's ROW and qualifies as a Section 4(f) protected resource. This response will assure the District's involvement throughout FDOT's planning and construction of the Sebastian Inlet Bridge project. Funding for easement location surveying services is budgeted and available under Professional/Contract/Service, Engineering/Surveying Consulting Account No. 5378-310. Funding for legal services in connection with the FDOT project is budgeted and available under Legal Counsel, Attorney/Project Related Account No. 5140-311.

- vi. Work Order No. 1920-018-ATM, Applied Technology and Management, Inc.-2020/21 Beach Placement Event Support Services

Mr. Gray reported working with the District's engineer on record, Applied Technology and Management (ATM), on the beach and dune repair project approved at February's Regular Commission Meeting. The project will truck haul approximately 50,000 cubic yards from the DMMA to the beach for placement and grading within the approved project template between FDEP Reference Monuments R-10-R-17. The project will focus sediments in the vicinity of developed parcels. This work order provides bidding, engineering, and construction phase services for the 2020/21 Beach

Placement Event. The total amount is \$76,925 and will be invoiced on a time-and-materials basis only for actual expended effort. Funding is budgeted and available under Sand Trap Dredging, Construction/Local Share Account # 5372-311. Additionally, the services provided under this work order are eligible for State cost share under the Florida Department of Environmental Protection Beach Management Funding Assistance Program.

- C. Public Outreach Activities – Mrs. Malyn referred to a summary of activities in the Commission packets and offered to answer any questions.

Under Agenda Item V

Preliminary Budget Discussion – FY 2020-2021

Mr. Kershaw called the Commissioners' attention to the Budget/TRIM calendar, detailing all related activity in the next 5 months. Specifically calling everyone's attention to the proposed dates for both the tentative and final budget hearings. The Tentative Budget Hearing immediately follows the Regular Commission Meeting on September 9. The Final Budget Hearing is scheduled for September 23. Mr. Kershaw indicated wanting to verify at least a quorum for the September 23 Final Budget Hearing. He asked that Commissioners contact him with any date conflicts that might warrant rescheduling that meeting.

Mr. Kershaw provided additional detail, indicating that the September 9 meeting will get noticed as part of a TRIM notice that goes out to all property owners/taxpayers. Within 15 days of September 9, the District is required to advertise the Final Budget Hearing. Mr. Kershaw tentatively has the ad scheduled to run on Sunday, September 20 and within 2-5 days within the appearance of the ad, the District must hold the Final Budget Hearing. He again asked any Commissioners to contact him with conflicts. Commissioner Mitchell asked if there had been any communications from the Property Appraiser or Tax Collectors offices in Brevard and Indian River County with regard to any changes in schedules due to COVID. Mr. Kershaw indicated there had not been any communications to date.

Mr. Kershaw then proceeded to review the FY 20-21 Budget Summary (see document). On the revenue side, this assumes adoption of a roll-back rate for ad valorem taxes, keeping the revenue essentially the same as the current FY at \$2.2M. On line 7, the budget anticipates receipt of additional FDEP grant funding under the current contract of approximately \$367,000. On line 8, a lower interest revenue assumption due to the rate drop environment we are now in. As to the proposed expenditures, on line 15, there is an increase of \$1,250 for three bond renewals anticipated for the Commissioners. On line 17, legal counsel expenses increased by \$10,000, anticipating legal fees related to the FDOT Bridge Project. On line 21, the sand trap dredging figure has increased considering the beach and dune repair project. Mr. Kershaw offered to answer any questions.

Mr. Gray added that he will be recommending a relatively flat budget for FY 20/21 due to the current economic uncertainty with COVID-19.

Under Agenda Item VI

Park Matters – Jennifer Roberts, SISP Park Manager

Mrs. Roberts indicated that the Park has now reopened at 50% capacity and that things have been going relatively smoothly. She did report that the Park was closed on several occasions, over several days. Rangers have been focused on managing everything from a public safety standpoint. The McLarty Treasure Museum will open tomorrow. Many renovations were completed during the closure, at the museum and Park-wide. The campgrounds are scheduled to open on Thursday, May 21. Mrs. Roberts indicated that the staff had worked hard to complete a number of improvements that she looks forward to sharing with the public. Mrs. Roberts indicated that sea turtle monitoring is ongoing with a number of nests already identified and marked. Commissioner Rowland asked if the boat ramp was open and if access was being limited. Mrs. Roberts indicated the boat ramp is open and access is not being limited in any way. Commissioner Mitchell asked about social distancing on the North Jetty and Mrs. Roberts indicated things were going relatively well. Rangers had posted signage and marked spots along the rail every 6 feet to help the public maintain social distancing. In addition, there are added FWC law enforcement patrols at the Park right now.

Under Agenda Item VII

A. Executive Director Evaluation, Memo dates April 16, 2020

Mr. Kirschenbaum provided a summation and a copy of each Commissioners' review of the Executive Director in packets he sent out to the Commission approximately one month ago. In each category, Mr. Gray scored between meeting job expectations (3) and exceeding job expectations (4). Mr. Kirschenbaum also shared the recommendations on salary among Commissioners.

Commissioner Mitchell thanked Mr. Kirschenbaum for his efforts, as well as those of her fellow Commissioners, making a motion to award Mr. Gray a 3% salary increase. Motion not seconded, fails.

Removing the two outliers of the five recommendations, at the top and bottom of the spectrum, Commissioner Frazier indicated the median of the three remaining figures were 2.2%. Commissioner Frazier made a motion to award Mr. Gray a 2.2% salary increase. Motion not seconded, fails.

Commissioner Rowland, considering current circumstances and unforeseen impacts, made a motion to award Mr. Gray a 1% salary increase. Motion not seconded, fails.

Chairman Lawton Seal asked for guidance from legal counsel Kirschenbaum. Upon input, Commissioner Mitchell renewed her previous motion of a 3% increase in salary for Mr. Gray. Chairman Lawton Seal seconded the motion and opened the floor for discussion.

Commissioner Rowland thought it best to maintain a conservative stance for a variety of reasons and referenced reaching out to Scott Ellis in Brevard County for salary comparison data for public officials. Commissioner Mitchell recognized Commissioner Rowland's point that these are unprecedented times, however based on the longer view, the scope of the job being done for the District and taking into account the unique nature of the position and District, she felt comfortable recommending the 3%. Commissioner Frazier noted that in her view she realizes the District is a unique entity, but also pointed out that Mr. Gray had only been in the position for a short time and makes a good salary. The CPI was only 2.3% this year and she felt staying along that margin may be a bit more equitable. Commissioner Hendricks noted the salaries of the engineers in the proposals approved earlier and said he was in favor of a more significant salary increase. Mr. Gray brings in significant expertise and deserves more than 3%. Further discussion ensued. Chairman Lawton Seal called the vote.

Commissioner Beth Mitchell	Yes
Commissioner Lisa Frazier	Yes
Commissioner Jenny Lawton Seal	Yes
Commissioner Michael Rowland	Oppose
Commissioner Chris Hendricks	Oppose

Motion to award Mr. Gray a 3% salary increase carries, 3-2.

Commissioner Hendricks noted Point of Order; asking if the salary increase would be retroactive based on the contract with Mr. Gray as approved by the Commission and previously reviewed. Commissioner Mitchell indicated her motion did not include retroactive pay and discussion ensued. Determined that District Legal Counsel to the review the contract and make a recommendation at the next meeting on whether the District has a legal obligation per the contract to make the salary increase retroactive.

Mr. Gray thanked the Commission for their support and for the opportunity to lead the District.

Under Agenda Item VIII

Public Comment Period – None.

Under Agenda Item IX

Consent Agenda

Consent Agenda – Motion to approve the Consent Agenda made by Commissioner Mitchell. Seconded by Commissioner Rowland. **Motion carried 5-0.**

Under Agenda Item X
Commissioner Items –

Commissioner Mitchell noted several items, extending her thanks to Mr. Kirschenbaum for his guidance and advice in proactively responding to the COVID19 situation to allow for seamless operations and Commission meetings, moving forward. Commissioner Mitchell also thanked the staff for their work and the way they have operated in the last two months. Lastly, Commissioner Mitchell announced she will be filing her paperwork to run for a 5th term as a District Commissioner.

Commissioner Frazier, nothing additional noted.

Commissioner Hendricks is working with the State to reduce state costs, and would welcome any suggestions for submission from other Commissioners.

Commission Rowland indicated he too looked forward to working with staff and the District for another four years.

Commission Chair Lawton Seal noted we made the right call in canceling the May Community Event and 100th celebration at SISP. She hopes that we can pursue a similar event with SISP in the future, perhaps as an Earth Day celebration with the same event footprint.

Under Agenda Item XI

Unfinished Business – Nothing at this time.

Under Agenda Item XII

New Business – Commissioner Mitchell asked if we would be moving forward with Zoom meetings. Mr. Gray indicated we can conduct virtual meetings through August of this year per the approved Resolution.

Under Agenda Item XIII

Adjournment – Chairman Lawton Seal adjourned the meeting at 5:36 p.m.

Secretary/Treasurer

Date

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