

Sebastian Inlet Tax District

Wednesday, June 10, 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, Bryan Flynn (ESA), Doug Skurski (ESA), Susan Shaw (ESA), Peter Seidle (ATM), and Jeremy Anderson (citizen).

Under Agenda Item I

Call to Order – Chairman Lawton Seal called the meeting to order at 4:01 p.m. and asked SID Legal Counsel Kirschenbaum to read the Zoom meeting instructions for participants and the general public.

Chairman Lawton Seal noted for the record that all Commissioners were present.

Under Agenda Item II

Approval of the Minutes of the regular Commission meeting of May 13, 2020. Commissioner Mitchell made a motion to approve the minutes. Commissioner Rowland seconded the motion. **Motion carried 5-0.**

Under Agenda Item III

Information and Discussion Agenda

A. Media and Information – No discussion.

B. Executive Director's Reports

1. COVID19 Discussion

Mr. Gray reported that staff has started a phased reopening of the office with a maximum of 2 staff members present daily. Mr. Gray indicated that the current schedule and protocols will continue through June. Further discussions will be had on how best and when to fully reopen the office. Mr. Gray's stated his goal is to maintain recommendations from the Florida Health Department and the CDC on spacing, noting the office is relatively small. Appointments will continue to be required for office visits for some time. Mr. Gray recommended that July's Commission Meeting also be virtual via Zoom.

2. May 15, 2020 Letter to FDOT re: Section 4(f) Protection Resource

Mr. Gray reported sending the letter as presented and approved at the last Commission meeting to FDOT. He also noted receiving several calls from contractors interested in responding to FDOT's call for proposals. Commissioner Hendricks indicated that by providing surveys and other support materials to the State, we are saving the State money as part of this project. It may present a PR opportunity for the District in his opinion, at the appropriate time and he suggested working with Senator Debbie Mayfield's office to quantify the savings and recognize the District for such assistance.

3. Request for Statements of Qualifications-Continuing Professional Coastal Engineering and Biological Support Services

Mr. Gray reported that an RFQ for continuing professional coastal engineering and biological support services will be advertised on June 15 as our current contracts (3) are set to expire this coming August. Commissioner Frazier asked for the three current vendors under contract. Mr. Gray indicated it was Applied Technology Management (ATM), Atkins North America, and Coastal Systems International.

4. Discussion of Consent Agenda

- a. Authorized work for Commission Review: None at this time.
- b. Recommended for Approval:
 - i. Work Order No. 1920-019-ESA, Environmental Science Associates-DMMA Gopher Tortoise Permitting and Relocation

As part of the continued DMMA maintenance contract with ESA approved at last month's Commission meeting and anticipating the truck-haul beach and dune repair project this Fall from the DMMA, the District must assure there are no gopher tortoises active in and within 25 ft. of the DMMA prior to the start of construction activities. Based on a recent ESA survey, there are an estimated 31 gopher tortoises in and around the DMMA within the distance guidelines mandated per required permitting. The fees for permitting and relocation of these gopher tortoises are estimated at \$53,832 and will be paid directly to the Florida Fish and Wildlife Conservation Commission and separate from the ESA portion included in this work order. Final fees will be based on total gopher tortoises relocated and will be determined following excavation. This proposed work order is divided into two tasks; Task 1-provides services for permitting and relocation, and Task 2-provides materials and the installation of an exclusionary device (Dig Defense) along the interior fence perimeter of the DMMA site which should greatly reduce future movement of gopher tortoises into the DMMA. Mr. Gray asked Mr. Flynn to detail the specs and plan for the exclusionary device, sharing photos of the device on-screen. Mr. Gray also noted that these costs may be eligible for a 50% cost share from FDEP and that staff would be submitting an application for cost-share reimbursement. The total amount of the work order is \$63,580.00. Funding is budgeted under Sand Trap Dredging/Construction/Local Share, Account # 5372-311.

Commissioner Mitchell asked if the 50% cost-share is already allocated in Tallahassee and simply waiting for a reimbursement request from the District. Mr. Gray indicated that while the District has applied for construction funding for the upcoming truck haul project, he is not aware of any final appropriations that have been made as of yet as part of the 2020-2021 funding cycle. Should the 50% not be allocated as part of that particular request, Mr. Gray will request reimbursement in future requests for up to 3 years. Commissioner Rowland asked when gopher tortoises were last relocated from the DMMA. Mr. Gray indicated gopher tortoises were most recently removed prior to the 2018/2019 Sand Trap dredging project. Commissioner Rowland noted the high cost of relocation, and felt looking for ways to reduce intrusion was beneficial. Commissioner Frazier asked what the cost was specifically for the (Dig Defense). Mr. Gray indicated it was approximately \$10,000. Mr. Flynn further indicated that the initial chain-link fence was trenched in about a foot, but over time has been exposed allowing for gopher tortoise intrusion. Mr. Flynn shared that Dig Defense was installed at Sarasota County's airport with great success. Commissioner Hendricks remembering that some fortifications were installed about a year ago, asked for clarification on the associated specifics. Mr. Gray indicated that some sediment and rocks from the DMMA were used to reinforce around the gate access fence line as a temporary barrier. Mr. Gray indicated continued work on how to address the access fencing in particular as an ongoing challenge. Commissioner Mitchell asked about the timing of the relocations and noted that in her experience, this is a cost of doing business as the District. Mr. Gray indicated weather is currently suitable for the next several months and relocation is anticipated prior to the project later this Fall (Nov/Dec).

- ii. Work Order No. 1920-020-ESA, Environmental Science Associates-DMMA Operations and Management Plan.

Per the approved contract as referenced earlier, this work order supports the development of an Operations and Management Plan for the DMMA by ESA for treatment to

control exotics and nuisance vegetation, as well as gopher tortoise management and relocation. With projects occurring every 4-5 years, the DMMA need to be accessible as a sand storage site. There is also exotic vegetation in the area that migrates to the DMMA necessitating quarterly or semi-annual herbicide treatments. The total amount of the work order is \$55,155 and will be invoiced on a time-and-materials basis. Funding is budgeted under Sand Transfer System/Advanced Studies/DMMA & Maintenance, Account #5371-326.

Discussion ensued. Commissioner Frazier indicated she was very supportive of a management plan for the DMMA, but urged that the District be very cognizant of the fact that this sand is transported to the beach and dune. The District should be very cautious about what is being planted, what's growing in the DMMA, what herbicides are being used. We cannot be responsible for transporting bahia seed or invasive species to the dune system, as examples. Commissioner Frazier referenced that the City of Sebastian is working on an integrated pest management plan – incorporating biological, chemical and manual management strategies - and she believes a similar course in developing the District's plan would be appropriate. Commissioner Mitchell thanked Commissioner Frazier for making these points, and concurred in perspective, lauding the job being done by Commissioner Frazier and the City of Sebastian. Commissioner Mitchell encouraged information sharing where helpful. Mr. Gray referenced he would work with ESA to look at samples discussed and indicated the plan would be coming back to the Commission for adoption.

iii. Work Order No. 1920-021, LSS, Land and Sea Surveying-Survey of Current Dune Line

The proposed work order authorizes Land & Sea Surveying to survey the eastern most line of dune vegetation along the District's sediment bypass project area (FDEP R-monuments R-10 to R-17). For the District to place sediment onto private property, separate authorizations or easements must be granted by each individual property owner within the proposed project area. As part of prior projects, the District utilized easements granted to Indian River County to place bypassed sediments on private property. Those easements have since expired. The District must now obtain new easements in order to complete the beach and dune repair project anticipated this Nov/Dec. A survey of the current dune line is prudent to define the landward placement boundaries, as well as the seaward placement boundaries, before reaching out to property owners and homeowners in the project area. The total amount of the work order is \$2,300 and will be invoiced on a lump sum basis. Funding is budgeted under Sand Trap Dredging/Construction/Local Share, Account # 5372-311.

- C. Public Outreach Activities – Mrs. Malyn referred to a summary of activities in the Commission packets and offered to answer any questions. She highlighted two items; 1-the District has transitioned to its new logo as planned across all platforms (web/social channels) with a more modern version of the seal we had been using essentially, and new letterhead had been developed. Just an opportunity to modernize what the District uses in its communications. 2-Mrs. Malyn submitted a community outreach plan and corresponding budget for Mr. Gray's review with activities through the end of next FY (September 2021). As approved, we have already begun working on some of the projects included therein. Mrs. Malyn offered to share the document with any Commissioner who may be interested in more detail. Commissioner Mitchell indicated she would like to see it.

Under Agenda Item IV

Preliminary Budget Discussion – FY 2020-2021

Mr. Kershaw referenced the Preliminary Budget Summary reviewed by the Commission at last month's meeting, indicating the document included in this month's packet was the detail associated with that overarching summary. Mr. Kershaw called the Commissioners' attention to the Revenue projections, starting on page 42, and noted essentially the same amount of revenue coming in from the two counties (Brevard and Indian River Counties). As

a point of information, Mr. Kershaw shared that, the estimated gross taxable value for Brevard County is up \$3B and for IRC, up \$400M as compared to last year. This also assumes the Rolled-Back Rate of 0.0737.

Commissioner Mitchell said she spoke with Mr. Gray last week, and subsequently with the IRC Property Appraiser Wesley Davis. Mr. Davis has expressed some concerns regarding the projected revenue in IRC based on impacts from Covid19. In addressing the IRC Commissioners on the topic of budget and projected revenue, he noted that projections were built around property values as of January 1, 2020. Mr. Davis is anticipating a significant decrease in value for property, particularly commercial. The Indian River County Commission decided to use the current projections based on Jan. 1 value and make necessary adjustments in the following year. Commissioner Mitchell also referenced there may be reason to be concerned about the cost-share dollars out of Tallahassee. She felt that the Commission should be considering these items now as part of a proactive stance for the District. Mr. Kershaw indicated he should be getting updated projections from county tax collectors within the coming weeks to further refine these figures. Commissioner Frazier indicated she thought it would be wise to anticipate decreased funding from the State, concurring with Commissioner Mitchell, and that planning for decreased revenue in the coming year, potentially adding funds to reserves this year, may be prudent. Commissioner Hendricks agreed and noted that he anticipates more serious challenges in 2021-22. Commissioner Mitchell had recommended to Mr. Gray that we should strongly consider adding to our reserve to ensure no future delays or impacts to District projects. She further noted that the Commission had previously built a reserve of \$3M and that was built in increments over time. Commissioner Mitchell recommended allocating \$250,000 to reserves as part of the coming FY budget cycle. Commissioner Hendricks noted public sentiment may be against collecting revenue and setting it aside. Commissioner Mitchell asked Mr. Gray for his input on setting aside funds. Mr. Gray indicated he understood the concerns and that a flat budget would be proposed for the coming FY. The economic impact study, he noted, will be delayed until 2021 for obvious reasons. Mr. Gray said he would update the multi-year project timeline and associated costs that was presented last year for the Commissions' review at the next meeting. Lastly, he noted that we may need to consider not going with the roll-back rate in the future with an average 18-month lag time for governmental institutions.

Mr. Kershaw then offered to answer any additional questions on the budget document as presented.

Under Agenda Item V

Park Matters – Jennifer Roberts, SISP Park Manager

Mrs. Roberts indicated that the Park continues to operate at 50% capacity and is limiting group size. Despite going into Governor DeSantis' Phase II, SISP is limiting groups to 10 or less. They are not currently renting Pavilions for that reason. She noted the Park was closed because of capacity earlier today and that whenever the weather is good, they are typically filling to capacity and having to manage entry. Bridge repairs are ongoing by FDOT. Mrs. Roberts also noted that in taking down the displays in the Fishing Museum, she was able to reach out to secure the District's historical banner displays. She indicated that they've been getting a lot of great feedback and interest in the panels. Lastly, Mr. Roberts reported sea turtle nest counts for the entire 3-mile stretch of beach located to the North and South of the inlet. As of June 5, there are 331 Loggerhead nests, 12 Green nests and 1 Leatherback nest. Commissioner Rowland indicated that during an offshore fishing trip yesterday, he saw many sea turtles that would likely soon come ashore.

Under Agenda Item VI

Legal Counsel Update – Jack Kirschenbaum, Gray Robinson & District Legal Counsel

A. Employment Agreement of Administrator/Executive Director/Chief Engineer regarding time of "annual" review

Mr. Kirschenbaum was asked at the last meeting to interpret the employment agreement. He provided a memorandum to all Commissioners of his analysis. Unfortunately, the language in the agreement is not specific enough to provide a definitive determination. Mr. Kirschenbaum's first point, all agreements attempt to memorialize the intent of the parties and if it does not, every agreement can be amended or modified. Second

point, the conduct of the parties can over time amend the agreement due to such conduct. It appears to Mr. Kirschenbaum that there was an anomaly when the agreement was being drafted and Mr. Gray was being retained. Mr. Gray was serving as a co-administrator upon hire in December until after his predecessor Mr. Martin Smithson retired officially on March 31. Mr. Gray officially became Executive Director on April 1. Working with Mr. Gray, Mr. Kirschenbaum has submitted the enclosed amendment to the employment agreement for the Commissions' consideration and approval.

Commissioner Mitchell made a motion to adopt Amendment No. 1 to the employment agreement with Mr. Gray. Motion seconded by Commissioner Frazier. **Motion carried unanimously, 5-0.**

Under Agenda Item VII

Public Comment Period – Participant and citizen Jeremy Anderson indicated he had no comment.

Under Agenda Item VIII

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 IX

Commissioner Items –

Commissioner Mitchell – none noted.

Commissioner Frazier – none noted.

Commissioner Hendricks – none noted.

Commissioner Rowland – Questioned whether the North Shoreline Stabilization project was delayed due to Covid19. Mr. Gray indicated no, that permitting and related discussions were ongoing with SJRWMD.

Chairman Lawton Seal – none noted.

Under Agenda Item X

Unfinished Business – Nothing at this time.

Under Agenda Item XI

New Business

Under Agenda Item XII

Adjournment – Chairman Lawton Seal adjourned the meeting at 5:13 p.m.

Secretary/Treasurer

Date

(5 of 5)