

**PLANTATION ACRES IMPROVEMENT DISTRICT
REGULAR MEETING**

October 25th, 2018

Member Present: J. Gary McAlpin, Chairman
Jesse Varnell, Commissioner
Louis Flanigan, Commissioner
Stephen Nieset, Commissioner

Present: David Fradley, District Engineer
Joe Telles, District Administrator
Paul Gougelman, District Attorney
Angel Alvarez, District Manager

Absent:

Chairman McAlpin: Called the meeting to order at 7:00 p.m. The Pledge of Allegiance to the Flag followed by the roll call indicated the above members were present. There was a quorum.

Vice Chair Szerlip: Lead in silent prayer; for all the folks who sustained damages up there in the West Coast; Panama and Mexico City; and all the folks protecting us around the world for our freedom. Amen.

MINUTES - Motion to approve the Regular Minutes of September 13th, 2018. Motion to approve Regular meeting of September 13th made by Commissioner Flanigan and second by Commissioner Varnell. Motion carried unanimously by voice vote. - Motion to approve the Budget Minutes of September 13th, 2018. Motion to approve Budgetary meeting of September 13th made by Vice Chair Szerlip and second by Commissioner Flanigan. Motion carried unanimously by voice vote.

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PUBLIC COMMENTS—Can be made at the beginning of the meeting or at the end. Would anyone like to address the Board members

Lyon Greenblatt-11460 NW 5th St –project being contemplated to improve drainage or lack thereof NW 5th St; letter provided to the Board; want property restored to original state; in favor of project prior; wants in writing.

Commissioner Varnell: Does it impact your drainage field; drain.

Lyon Greenblatt: No. Worried on concrete driveway and yard;

District Engineer Fradley: Overview of proposed project with map view; contractor restores everything they do; difference if trees are in the way don't put back only fences; won't go on driveway; massive boulders won't be touched; no crane only backhoe. Damage like if they were building a pool in your backyard.

Chairman McAlpin: Specify placing of plywood to prevent damage to driveway and balancing of load; and minimize impact to certain extent.

Commissioner Varnell: You mentioned a fir tree; don't think that's going to remain if in the way.

Lyon Greenblatt: Dig it up and I'll replant.

District Engineer Fradley: Contractor will meet with you and he will have specific instructions.

Lyon Greenblatt: You will put in writing that the property will be remediated otherwise I will not approve this project.

Chairman McAlpin: Mr. Fradley demonstrated what we're doing, try to minimize impact all around; we're prepared in the event to restore damage to properties to the satisfaction of the owner; we go more so on the owner's side because we don't want any issues; taking pictures for documentation of property condition; don't see a problem with putting that in writing; this is a Board decision; we in turn want you to be reasonable with us because we're not going to repair each quarter inch scratch; not int the absurd; benefits everyone on the street.

District Attorney Gougelman: I don't have a problem if the Board will approve that.

Vice Chair Szerlip: I have a statement that in over ten years with the Board it has never come to my knowledge someone requesting something like this in writing.

Lyon Greenblatt: Dad told me when I was a young lawyer when you give your word or shake a man's hand and look him in the eye you don't need paper...my dad never practiced in South Florida.

Commissioner Flanigan: Let the record reflect that I'm not in favor and objected to the writing of a letter regarding the repairs.

Commissioner Nieset: I'm in favor of it.

Vice Chair Szerlip: I'm in favor of it.

Commissioner Varnell: I'm in favor of it.

Chairman McAlpin: I'm also in favor of it. That's what we'll do.

Lyon Greenblatt: Any plans on the control of the iguanas?

Chairman McAlpin: Fish and Wildlife State Agency issue.

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DISTRICT ADMINISTRATOR'S REPORT:

District Administrator Telles: Provided an overview of the Consent Agenda and the Cash Flow for the month of September 2018 waited if possible, for invoices to come in for the month September and this report may be revised if we get additional invoices dated September. Motion made and second to approve Consent Agenda and the Cash Flow. Commissioner Varnell mad a motion to approve the Cash Flow and the Consent Agenda for August 31st, 2018 and motion second by Vice Chair Szerlip. Motion carried unanimously by voice vote.

Operation and Maintenance: **\$47,579.32**

TotalAdministration**\$5,175.45**

Financial Expenses (Assessors Collection, Assessors Discount, and Bank Fees/Interest):**\$**

Engineering General: **\$**

Engineer Violations: \$

Engineering Plats & Permits: **\$**

Legal Fees:

District Manager Vehicle: **\$**

Vehicle Maintenance/Tolls: **\$**

Assessors Collection Fee: \$
Emergencies and Contingencies: \$
Capital Reserves: \$
Canal/Swale-Main: \$
Canal/Swale-BC & E: **\$4,723.25**
Canal and Pond Chemical Spraying: \$
Pump Station Restoration/Engineering: \$
Capital Expenditures: \$
Total Expenditures: **\$57,498.03**
Total for the 12 months: **\$898,048.94**
Non-ad Valorem Assessment (Current Year): \$
Non-ad Valorem Assessment (Prior Years): \$
Total Receipts: \$
Interest – Non-ad- Valorem: \$
Interest – Bank Accounts - \$
Bank Balances YTD: (Checking Account, Money Market, Fiscal/Equipment Reserve, Drainage Reserve, \$
Bond/Permit): \$
\$156,688.06 under the budget but the majority of that is the canal swale (engineering; roles into 20182019)

Chairman McAlpin: Operations & maintenance, administration and other expenditures most of the increases due to the storms we've had prior to Hurricane Irma and Hurricane Irma expenses and we did what we had to do in terms of spending overtime for staff, I want to state that for the record. Comments or questions on the Consent Agenda, Cash Flow Statement or General Ledger for period ending September 30th, 2018. Motion to approve Consent Agenda, Cash Flow and General Ledger of September 30th, 2018 made by Vice Chair Szerlip and second by Commissioner Varnell. Motion carried unanimously by voice vote.

District Administrator Telles: Discussed computer situation; took to IT people; they worked on recovery of emails successfully; other computer for the pumps are up and running; have a contract for my office; asked them for what is adequate to monitor; have different levels of coverage; service unlimited devices, remote access support, stored passwords, hardware monitoring, list of IT assets, regular backup checks, team viewer on computer (remotely log in) , and any drop off support (all incorporated) for \$175 (silver service monthly). Our computers are old about six years. At some point might want to replace the computers. Concerned with last week the computer telemetry shutting down. Stations ran manually for ten days. 100.00/hr. Two years left on the telemetry with current computer.

Vice Chair Szerlip: History on any multiple problems?

Commissioner Varnell: Team view is basically fee software; they can dial in to do remote. Rather see the money go into replacing the computers.

Commissioner Nieset: How much more life can it possibly have if that old? Think more of replacing the system that to pay and go on a maintenance program.

Vice Chair Szerlip: New computer would be a better way to go.

Chairman McAlpin: Getting a new computer doesn't necessarily mean you have the maintenance. Don't have a problem spending 175.00 a month to maintain the computer; remember that computer controls our pumps. Do we want to evaluate it for six months and see whether to do a monthly, hourly or a service at all? Can we get a better price on the big screen, work station, with laptops, replace or just monitor on monthly basis? Sooner or later we'll need an expert to come in here and go through this stuff; it gets more complex all the time.

District Attorney Gougelman: Mr. Chairman a question is how this impact may and does this service help with protecting you against hacking, and preservation of public records because the District has an obligation to protect its public records.

Commissioner Varnell: To me the hacking is software; contract won't do anything; they're giving us free software; they have a firewall setup; they can see if anyone is accessing the firewall or is trying to but that may be additional hardware/software that they have setup to do that or get setup to do that. I'm not going to oppose only that that's my consensus. If the Board wants to go the other way, I don't have a problem with it; just think if our computers are six/seven years old and especially the software program we...on the monitor system we have major things working; office computer is simple software; don't need anything special.

District Administrator Telles: We should have them come in; evaluate hardware/software; security; and provide a written report. Spraying on the canals we are good on the contract; website is good minutes will be posted once approved.

Chairman McAlpin: Have them come in and do an evaluation.

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LEGAL REPORT –

District Attorney Gougelman: At the last meeting you asked me to investigate the tax certificate issue on the Redlands Holding company property North of us. Let you know the ins/outs to check it out and get to you with a report. I have done that and let me tell you first how tax certificates work if you don't know. On a tax certificate when the taxes are not paid the Broward County Revenue Collector publishes notices in the Daily Business Review then you can engage in online bidding for those tax certificates. What happens is that somebody that would bid would start out at a high tax rate not exceeding 18% and the bidders compete to see who can win the bid by bidding the lowest interest rate and still making a bid. In this case Ocean Bank was working as a nominee for a company called JPL Investments and they bid 14% interest rate. The idea is the way the system is set up is the government wants somebody to pay the taxes and at the same time they would like to have for the public's interest the lowest interest rate. Theoretically you can enter a bid for a 1% interest rate which obviously to you the bidder is not to your advantage when you can get a higher tax rate. That's our highest interest rate but in any event. Let me follow the process thorough and this will probably give you some more information. When that happens is whoever buys that tax certificate is the successful bidder on that tax certificate and can hold it and the property owner at some point can go in and pay it off. Alternatively, the bidder has the right to apply for a tax sale and they must wait for two years to receive their tax certificate by Statue. Theoretically we're talking about since this tax certificate was issued earlier this year, we're looking at another two (2) years before they can apply for a tax sale. At the tax sale what happens is they and anybody else has the right to bid on the property. Whatever price comes in automatically includes enough money to pay off the tax certificate. So Ocean Bank as the tax certificate to holder if they choose to and apply for a tax sale and at that point if they want to bid they can and if not they don't have to and if somebody else comes along and bid and obviously whomever bids wants to get the lowest price that they possible can and if they're the successfully bidder the Clerk of Courts will issue a tax deed. Basically, that's how it works. During that two (2) year period the tax certificate holder can't try to work out some deal and contact the property owner. They must sit tight. We're looking at roughly two (2) years or before a tax deed would be up for bid and sold. That brings us back to Redlands Holding Company which was dissolved by proclamation in 1966. There were four (4) directors all family members, Mom and Dad and two (2) sons living in Coral Gables at the time. Quite sure Mom and Dad are deceased now and I'm not sure on the sons and if they're still living. We haven't gone down that road to check. I wanted to come back and report to you on this. If we find that that there is at least one son alive and I must check on this further, we can get some trustees appointed to fill the other Board positions and yes you can negotiate with them at that point and try buy the property and pay for the tax certificate too if paid by November 30th \$3,822.75 for one year's taxes. Will not be able to recover money; its lost; The flip side to this there is another way by which you can get the property which is by process of condemnation, I want to talk to you on what it involves and keep in mind before I finish my discussion tonight I'm going to talk about the relationship on the condemnation process to trying to go and find if the sons are still living and they still may be not more than likely. The condemnation process would involve basically two steps first preparation for the condemnation and getting an uncontested judgement ;we have a couple of people in our office that do nothing but condemnation work so I sat with one

of them and went through the process with them what has to be done is a couple of different things one is there needs to be a complete background examination in an attempt to find the sons if they are in fact still living that's number one and number two is a study to justify the condemnation and the problem is the price. An appraisal needs to be done on the property by a property appraiser and then an action filed in the Circuit Court. The estimate on the cost of all that is probably about \$40,000 to \$50,000 and not cheap. If contested in some way and I don't know whom would contest it if the person contesting it has a right to the property you will probably have to pay their attorney's fees as part of the condemnation process. That's just the way it works. Here is the important thing. Let's say that we find one or two of the sons are still living, your automatic inclination would say well let's go negotiate with them and see what kind of a deal we can make out and if you do that you would be cut off from being able to go down the road of condemnation. On the other hand, if you get ready to go through the process of condemnation suit the study that must be done the appraisal at that point before you file something in Circuit Court you would be required to approach them and see if you could negotiate with them. If all the people that were on the Board of Directors are dead, we've actually had that down at Bal Harbor where we were dealing with a corporation and all the directors had passed away, what happens is you must approach the court and get a trustee appointed and they you must have a fair good faith negotiation with the trustee to get a deal worked out. The trustee would be representing the estate; I don't know where the money goes; I didn't ask that question but that is the process. We've been through that process before. Not an easy process but it's doable; usually you try and get someone appointed whom is understanding of the condemnation and property appraisal process and hopefully easy to work with. It must be approved by the court. The bank plays two roles in this 1) at some point in the process if we ever got a chance to buy the property we would have to pay that investor their money plus interest at 14% up to the time that there're paid it's obviously a money making process for anyone that bids; you must pay the taxes plus the interest and by the time this is done there will probably be another year or two of a tax sale because you can't have a tax sale until two years have gone by. 2) The other role the investor plays in this they can make an application for a tax sale to occur; actually have the right to pull the trigger and cause the bidding process for a tax deed; by Statue they have to wait two years; they don't own anything other than their tax certificate; they're not a property owner their sole right is to come in and bid at the tax deed sale. That might be an advantage to them because if they know there's someone else that wants the property then they can just sit there and bid the price up. If no one else comes they'll going to probably able to bid and win the bid for a price on the property that's worth less than what the property is worth. We would bid against them and anyone else that wants to bid on that tax sale. In any event you would have to do an appraisal for condemnation so when you get into a bidding process by the way it's done on line, not like in the old days going into a room and eyeball the other bidder, you never see the people you're bidding against. This isn't a legal, but a business decision and the question is "how much do you want and need it"? The study that would have to be done preparatory to a condemnation there's several factors in that study with the things you must demonstrate is a public purpose need for that property and obviously that could be fashioned in several different ways in the event. If the taxes for this year aren't paid there will be another tax certificate issued. You can probably buy the second tax certificate if you wanted to and you will have a seat at the table anyway because when the tax deed sale occurs anyone has the right to bid. There could be twenty people or one-person bidding on this property. There was one for the certificate not for the tax deed. By getting a tax certificate the important thing to understand is you don't own the property you don't own an interest you own a tax certificate which at some point in the process when someone at some point buys the property that tax certificate must be paid off, you're making interest at 14%. Better to get it at Bank of America. Sometimes people make a living out of doing this. Good news is you don't have to decide tonight. Basically, the bottom line is the logical question you would have, and any decision maker would have, if we go the condemnation route is how much is it going to cost? We're estimating that if its uncontested it could be around \$50,000 could be less or more. If it's contested could be \$100,000. The business question gets down to how important is this property to you? Because that's not the price for the property, that's the price for the legal proceedings. Buying the property would be based on an appraisal. The appraisal is hopefully done by a MAI appraiser which is the gold standard for appraisals then the court will probably accept that if the hearing becomes contested you will probably end up with two appraisals and you will have duals and then it will be up to a jury. I think there's also one other issue to confront as well and I haven't check into this on how its zoned, comprehensibly planned, and how it fits with what you'll use it for.

Chairman McAlpin: That's about 150,000 that we don't have. If we can buy it for \$25,000 it's a different story.

District Engineer Fradley: Overview of other plats; no right off way (reservation). They now have no title to it; they now have reservation which is for drainage purpose. That's how we got this property. Believe you can petition the State.

Reason would be to expand drainage. I'll call the property appraiser's office. We could probably start parking our vehicles on the property.

District Attorney Gougelman: We would have to keep our eye on the Daily Business Review publication. You will need to monitor in a little less than two years. What happens is that the revenue collector must publicize the tax deed sale in that publication to make it public notice so that anybody can bid. I need to see the reservation. Maybe the bottom line is if we can get title to this property then we just pay off the tax certificate. You'll be happy to know that to date I've only spent \$200 of the \$5,000. Dave and I will work together on this issue.

Chairman McAlpin: Next meeting will be November 29th for the two-month period.

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ENGINEER'S REPORT -

- A. CONSENT ITEMS – None
- B. QUASI-JUDICIAL ITEMS -

The items in this section are quasi-judicial in nature. If you wish to object or comment upon any of these items, you must be sworn before addressing the Board of Commissioners, and if you wish to address the Board, you may be subject to cross-examination. If you refuse to submit to cross-examination, the Board of Commissioners will not consider what you have said in its final deliberations.

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- C. BOARD ACTION ITEMS -

C1. Neighborhood Drainage Improvements (D1712.01)Execution of Contract
 Contract bid form and agreement

Summary: Miguel Lopez Jr., Inc. (MLJ) lowest qualified bidder; pre-award meeting held September 25th, 2018 with representatives of MLJ to discuss bid and contract; confirmed they are willing and able to complete project and accepted revisions to the bid documents for inclusion in the contract; contract revised to remove the items to be done by district staff/district sub-sub-contractors; final contract amount is \$453,270.00; projected expected to take ninety (90) days or less from Notice to Proceed for construction (NTP); provided un-executed bid form and agreement portions of the contract for reference;

Recommendations: Accept and execute the contract with Miguel Lopez Jr., Inc for **\$453,270.00**, to be completed in ninety (90) days or less;

Comments: Following execution of contract, the four (4) copies provided shall be signed by the Chairman; one copy shall be returned to MLJ with an NTP for securing the City permit, submitting shop drawings, and acquiring materials; upon receiving the City permit, an NTP for construction will be issued.

Chairman McAlpin: What is the expected time frame to get the City permit? Want to get this started by the holiday season. Motion to approve the contact with Miguel Lopez, Inc.to provide the main drainage Motion to approve the contract with Miguel Lopez Inc. made by Commissioner Varnell and second by Vice Chair Szerlip. Motion carried unanimously.

District Engineer Fradley: Typically, one week. That's it on my agenda. Signing contract after the meeting is adjourned.

- D. DISCUSSION ITEMS:

D1. Permit Activity (D9408.02 &D9408.03 Summary

Summary: Approved Building Permits

<u>No.</u>	<u>Name</u>	<u>Address</u>	<u>PAID No.</u>
1.	Bernal (Generator & Tank)	11450 NW 21 st Ct	B9912.07
2.	Lelczuk (Fence)	11700 SW 1 st St	B0606.09
3.	Estefan & Hernandez (Pool & Driveway)	11600 SW 1 st St	B0701.02
4.	Sabag(Paver patio, walkway & driveway)	11331 NW 6 th St	B0305.02

5. Felix (Fence)	11850 NW 27 th St	B9003.09
6. Kaminsky (Pool Enclosure)	11890 NW 19 th St	B1012.02
7. Zeiher (Generator & Tank)	1250 N Flamingo Rd	B8905.09
8. Myers (Demo Pool & Spa)	12360 NW 8 th St	B0211.09
9. Ivy's Threading Salon (Con. Slab & Driveway Ext)	11730 NW 27 th Ct	B9202.01
10. Ramirez (Fence)	12360 NW 7 th St	B9403.07
11. Wyld (Fence)	12181 NW 26 th St	B9408.06
12. Goldfarb (Fence)	11501 NW 21 st Ct	B0109.06
13. Beach (Fence)	12281 NW 26 th St.	B9611.02
14. DeMarco (Fence)	11624 NW 5 th St	B9306.07
15. Deutsche Bank National Tr. Co (Fence)	12050 NW 4 th Ct	B9708.02
16. DeSantis (Driveway)	12121 NW 11 th St	B9408.05
17. Moberg (Pergola)	11260 NW 27 th Ct	B0104.03
18. Hamilton (Fence)	11860 NW 7 th St	B1803.01

Summary: Approved Certificates of Occupancy

<u>No.</u>	<u>Name</u>	<u>Address</u>	<u>PAID No.</u>
1.	DSL Construction & Investments (House)	11551 NW 6 th Pl	B9802.04
	D4. Violation Activity – None		

IV. DISTRICT MANAGER'S AGENDA-

Pump Station– Station six will be dismantled and restored to correct an oil leak during winter 2018

Station Inspections –

Canals: This Month –4.0' avg at last viewing (10/16/18) Previous Month Total – 4.83' Yearly Total – 4.00'

Rainfall: This Month – .29" Previous Month's Total –7.49" Yearly Total – 50.56"

Projects: South Acres clearing; canal bank maintenance; tree removal at B-Canal along 8th St.; irrigation leak corrected under office maintenance parking lot (sinkhole; catch basin cover replaced at inlet 4X/5 (along C-4 canal at 122nd Avenue.

Last Month Follow Up: South Acres project clearing is completed until a detailed walkthrough with contractor.

Fleet: Break work for the 2010 F150 (pads and pump); Bobcat losing hydraulic oil pressure; diagnostic to be requested through Bobcat services; F-250 tire patched.

Safety: No incidents to report

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Old Business–

Commissioner Flanigan: question on canal easement maintenance; what exactly is our position on that; maintenance on the grass weed and at what point are we required to maintain it? Do we or the owner of the property take it down to the waterline and where are we on that? What do we do if the homeowner doesn't maintain the area? Do we ever send out a letter informing them of the issue and I notice you ride these canals just about every morning? Is this something you might be looking for on the overgrown canal easements? We have a 30-40-year-old tree that's overgrown and developed that way; canals and homes built around it.

District Manager Alvarez: On our policy manual; homeowners are responsible for the vegetation and we're responsible for the condition and stability of the bank; the canal bank going down to the water I have the sprayer taking care of that; they spray once a month; we only maintain the Southside of the canal (main 1 thru 6); on the Northside we have in some

areas fence, tree violations right up to the canal; secondary canal alternate with the maintenance access; sometimes on the East side and other times on the West side of the canal; eventually my staff cuts it therefore getting the impression that we have the responsibility of maintaining it. In all my years in the Acres, I have never charged anyone for cutting grass; my staff does the canal banks. Usually I place a red tag on the property and they address the issue. In the South Acres at the Heritage Estates all those homes have put fences that traverse across the swale and connect, and my staff can no longer maintain the swale. I wrote a letter to all homeowners advising that since they have denied us access it is your responsibility to maintain it. This is a new issue. I can make a form letter if you'd like.

Chairman McAlpin: When we must make a drainage issue work, or a property owner that we have a citation issued, we can go in and do it and charge them twice the value of the work we did, and we could put a lien on the property. They can take that access down because it's on our easement. The tree might be special but it's the homeowner's responsibility to keep the area maintained.

Commissioner Varnell: North Acres swale project the three streets; we decided where we're going to do it but...cutting the swale.

Chairman McAlpin: If we cut the swale, we need to get it surveyed first; then we can get it completed.

New Business –

District Administrator Telles: I had mentioned it before to Angel and I came down 19th Street this afternoon and again there's a new pile/truckload of dirt.

District Manager Alvarez: It's a swale area but that pile of dirt comes and goes; it's his daily work; by the morning the pile is gone and a new pile replaces it and then that one is gone by the next morning; he never leaves it; has a canal behind his house; he's the very first house off 112th everyone else. That street never floods; there aren't any drainage issues at that corner. I'll talk to him about placing it somewhere else; has had issues with the City, Code Enforcement, they saw the equipment by the canal bank and fined him. I will speak with him. I assure you there has never been a flood issue there.

VTS computer is having daily power loss issues; has been delivered to NexusTech (via Joe Telles for troubleshooting). 5th Street project (P.A.I.D. funded)- 11460 NW 5th Street requesting detailed explanation of intent and restoration confirmation before agreeing usage of private property for drainage improvement; invited to attend meeting and address the Board with concerns; letter from homeowner provided for review).

District Engineer Fradley: Will be changing our pumps to the dry season settings.

Vice Chairman Szerlip: There are terminates in here have it checked. There are lots of dead fish according to some people in the area.

There being no further comments, the meeting was adjourned at 8:32 p.m.

J. Gary McAlpin, Chairman Date

District Secretary Date

