

ST. AUGUSTINE PORT, WATERWAY & BEACH DISTRICT
MINUTES OF SPECIAL MEETING
Monday, July 8, 2019

A special meeting of the St. Augustine Port, Waterway & Beach District was held at the St. Augustine Beach City Commission Meeting Room, 2200 A1A South, St. Augustine Beach, Florida, on Monday, July 8, 2019.

1. **CALL TO ORDER**

Chairman Barry Benjamin called the meeting to order at 3:00 PM.

2. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the flag of the United States of America followed.

3. **ROLL CALL**

Chairman Barry Benjamin, Vice-Chairman Tom Rivers and Commissioners Matt Brown, Sandy Flowers and Chris Way were in attendance. The meeting was also attended by Mike Trudnak of Taylor Engineering, District Counsel Jim Bedsole and Secretary-Treasurer Elyse Kemper.

4. **DISCUSSION OF THE SUMMER HAVEN RIVER RESTORATION PROJECT**

Chairman Benjamin opened the floor for discussion of the current status of the project. Commissioner Flowers asked Mike Trudnak for a status report on the dredging of the river. Mr. Trudnak said the contractor reported having removed 58,000 cubic yards of sand from the river. Mr. Trudnak said his preliminary review of the as-built survey verified that at least 49,000 yards of sand had been removed north of station number 13. The sand removal from stations 5 to 13 has not been calculated, but the total calculated to date is already in excess of the contract amount of 47,000 yards. He said the elevations achieved look good but that the available funds did not allow dredging the entire channel to the depths contemplated by the original permit. He added that the dune elevation on the east side of the river looks good and some shoaling issues remain in the south end due to conditions south of the project. In response to questions by Commissioner Flowers, Mr. Trudnak said the south end of the river is station 0.0 and the Summer Haven Bridge is in the area of stations 45 through 48 on the north end of the project. Dredging stopped at station 52. Station 13 is very near the contractor's equipment access area and station 5 is where the latest dredging began.

Commissioner Flowers said her observation is that the area south of the Summer Haven Bridge is not navigable at low tide and that the situation appears to be similar all the way south to station 13. Mr. Trudnak said the sand removed was substantially in compliance, and probably in excess of, the required elevation template. Commissioner Flowers said the permitted elevations are not acceptable to her or to the residents of the area who have supported the project for many years.

Commissioner Brown asked if the expectations for the project depth had changed between the beginning of the project and the last dredging. Mr. Trudnak said the plan after Hurricane Irma was based on the funds then available and that he could not verify the pre-Irma elevations.

Terry Parker, a member of the Friends of Summer Haven River (FOSHR) said before Hurricane Irma, the north end of the channel was six to eight feet deep at low tide and that after Irma it was completely filled with sand. He said it is better now but not as good as the pre-Irma depth. Mr. Trudnak said he agreed with that, and that Irma had created so much shoaling, the funds available for repairs were not enough to restore it to pre-Irma status.

Commissioner Flowers asked if the contractor was responsible for repairing the damage done to the project by Hurricane Irma. Mr. Trudnak said he had never encountered a situation where the contractor was responsible for hurricane damage. He said the contractor had the insurance required by the contract.

Commissioner Flowers said FEMA had cited a lack of insurance as the reason for its denial of the District's claim. Mr. Trudnak said the denial was not based on insurance, it was based on FEMA's interpretation of the terms of the construction contract which they said placed liability for the damages on the contractor rather than on the District. Commissioner Flowers asked Mr. Trudnak for copies of his entire documentation for the Summer Haven project and he agreed to provide the contract and insurance policies.

In response to further questions, Mr. Trudnak said inspections were performed at least bi-weekly and that Taylor Engineering relied on the contractor's truckload count to estimate the amount of sand being removed from the river. He said that method proved to be accurate.

Commissioner Flowers said FEMA had cited a lack of inspections as part of its rationale for denying the District's reimbursement request. She requested copies of both the contractor's and the engineers' insurance policies as soon as possible.

In response to questions from Commissioner Brown, Mr. Trudnak said expectations for the project outcome had changed to match the funds available after Irma. He said the river was totally exposed to a potential breach from the ocean after Irma and that all resources had been expended building up the berm to protect the river from further damage. After that, the legislature released a grant of \$450,000 and St. Johns County repaid a debt of \$352,000, for a total of \$802,000 to spend in repairs and costs, which has been largely expended.

Commissioner Flowers again stated that the contractor failed to carry insurance. Mr. Trudnak said that is incorrect; Turnbull did have insurance. The problem with FEMA is its interpretation of the construction contract and the meaning of its terms regarding wind and water damage, and other natural events. In response to questions from commissioners, Mr. Bedsole said he would review the contract documents and insurance policies and report back to the board.

Mr. Trudnak went on to explain that the original bid by the contractor was for the use of land-based equipment. He said this method was possible because of the totally dry nature of the sand-filled riverbed when the work began. After two hurricanes, the river was awash

and land-based equipment had then to be supplemented with dredge equipment, the size of which was limited by the need to access beneath the Summer Haven bridge. He said the dredge was not as efficient as the land-based equipment, but the contractor agreed not to change his price per cubic yard.

Commissioner Flowers said she contacted the Army Corps of Engineers and was told the Corps has a small project program for the restoration of aquatic eco-systems for which Summer Haven may qualify. She said they are looking for suitable projects and are willing to explain the program to the board. They only need a letter requesting assistance to send a team of experts to evaluate the project. Mr. Trudnak said the project may not qualify because it lies in a zone where the expenditure of federal funds is often prohibited. He said the initial question is how much it will cost to complete the project as originally contemplated. Then, finding a contractor willing to do it for an acceptable price. He said the county is planning to dredge the south end of the river and is already doing preliminary tests on the site.

In response to questions from Commissioner Brown, Mr. Trudnak said sand fence was never part of the plan for the project. He said sand fence works but requires maintenance in order to be effective, and this was not written into the project. However, planting sea oats is a part of the permit.

In response to questions from Commissioner Way, Mr. Trudnak said the contractor has fulfilled the dredge requirements of the contract as amended by the change orders. He said dredge elevations are acceptable within one foot, plus or minus, of the contract specifications, and that the as-built survey can be used by a contractor to determine the cost of further work on the site. In response to a request by Commissioner Flowers, Mr. Trudnak said he would provide copies of all of Taylor Engineering's invoices for the project, all contract documents, and all insurance policies.

In response to questions for Chairman Benjamin, Mr. Bedsole said the District has no responsibility to continue the project unless the board chooses to do so. Commissioner Flowers said a lot of tax money has been spent and the District should protect the investment. Mr. Bedsole said everyone involved has made a good-faith effort in the face of not one, but two, devastating hurricanes, and that the work within the permit area, while imperfect, is substantially complete according to the engineers. Commissioner Flowers said she believes the District should sue the parties involved. Mr. Bedsole said a lawsuit would cost a great deal and risk the loss of more money. He said a better option would be to appeal the FEMA denial and also make a claim against the insurance policy covering the construction work.

Ellis Zahra, FOSHR, said the original goal eleven years ago was to restore the river and build a protective dune. The original intent was to make the river navigable and it was virtually completed prior to the two hurricanes. He said FOSHR did not expect the river to remain partially filled with sand. Now, there may be no option but to seek more funding.

Jay Ginn, FOSHR, said the money spent on the river is a bargain compared to the amounts spent for beach renourishment and that the main issue going forward is the cost to finish the restoration of the river.

Chris Mayer, FOSHR, said the river is not in a healthy and viable condition as it now exists.

In response to questions from the audience, Mr. Trudnak said job specifications do not specify what means and methods a contractor must use. Here, the contractor successfully used land-based equipment for almost all of the work. Because of changes in state regulations, most bids after this job began rose to \$30 per cubic yard for dredging. Turnbull remained at \$15 per cubic yard after Irma and represented the cheapest alternative.

5. NEXT MEETING:

Chairman Benjamin announced the next regular meeting of the board will be held at 3:00 PM on Tuesday, July 16, 2019, in the St. Augustine Beach City Commission Room,

6. ADJOURN

There being no further business, Chairman Benjamin adjourned the meeting at 4:15 PM.

Secretary-Treasurer

Chairman

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