

**HARBOUR WATERWAY
SPECIAL DISTRICT
Agenda**

Tuesday
May 10, 2016
7:00 pm

Resurrection Episcopal Church
12355 Fort Caroline Rd.
Jacksonville, FL. 32225

- I. Introduction**
 - a. Call to Order
 - b. Roll Call / Quorum

- II. Administrative**
 - a. Approval of Minutes
 - i. Minutes from April 12, 2016*

- III. District Business**
 - a. Spoil Site Procurement – Reed Island
 - b. Resolution 2016 - 02; Assignment of DEP Easement & Dredging Permit
 - c. Form 1 Due by July 1, 2016

- IV. Financial**
 - a. 2015 HWSD non-Ad Valorem Assessment
 - b. Approval to disburse funds

- V. District Schedule**
 - a. Next Scheduled Board Meeting
 - i. June 07, 2016 – Resurrection Episcopal Church*

- VI. Other Business**
 - a. Legal and Compliance Issues

- VII. Comments and Questions from Audience**

- VIII. Adjournment of HWSD Meeting**

HARBOUR WATERWAY SPECIAL DISTRICT

TUESDAY, MAY 10, 2016

MEETING MINUTES

Introduction

The Harbour Waterway Special District (HWSD) meeting of the Board of Supervisors was held at the Resurrection Episcopal Church on May 10, 2016. The meeting was called to order at 7:00 PM by Robert Birtalan. In attendance were Robert Birtalan, Robert Schleef, Lindsey Brock, Paul Stroup and Stanley Pipes. It was noted that there was a quorum present. HWSD attorney Wayne Flowers was present. Kathryn Boucher was present as recording secretary.

Administrative

Approval of Minutes from April 12, 2016 – Motion made to approve the minutes; motion passed.

District Business

Spoil Site Procurement – Reed Island – City Councilman Al Ferraro informed Robert Birtalan that JaxPort is having an internal meeting on May 18th in preparation to sell or lease the Reed Island property to the HWSD. The documentation should be in place at the June meeting of the port. Mayor Lenny Curry is in support of the HWSD receiving either the port's or the city's property. David Kaufman spoke with Stanley Pipes and explained that JaxPort is leaning towards selling the spoil site, rather than leasing it. The property should be appraised prior to a sell price being set. The current value on the property appraiser's website is \$24,000.

Resolution 2016-02; Assignment of DEP Easement & Dredging Permit – The name on the existing permits must be changed from the Harbour Waterway Association to the HWSD. The Tallahassee office has taken over the project since the easement is being reassigned. Brad Richardson explained that the HWA does not have any legal right to the easement since it has no upland interests, so the HWA should never have had the easement. Being a government entity, the HWSD is not subject to the upland interests requirement, so the lease may freely be reassigned for a fee of \$650. Motion made to sign the new easement agreement; motion passed. The DEP dredging permit is being handled in Jacksonville. The dredging permit will be permanent, but will take 45-90 days to complete.

Form 1 due by July 1, 2016 – The board members were reminded.

Election for Board Seats 1, 3 & 5 – Beth Fleet from the Supervisor of Elections office has provided the members with the forms to be notarized and turned in. The form may be turned in June 6th and it will be held until the official qualifying period. Paul Stroup has listed his house for sale and will keep the board informed of any change in status.

Financial

2015 HWSD non-Ad Valorem Assessment – 93% of funds have been collected, for a total distribution of \$186,021.13.

Approval to disburse funds – Motion made to approve disbursements for legal services, transfer of the easement and administrative services totaling \$1,200.00; motion passed. After all projected debt service and the projected assessment collection, the total of the disposable funds remaining in the BB&T checking account is \$130,447.11. There was a discussion of contacting BB&T to restructure the loans in the event of the opportunity to purchase the Reed Island parcel.

District Schedule

Next Scheduled Board Meeting – The next meeting will be June 7, 2016 at Resurrection Episcopal Church.

Other Business

Legal and Compliance Issues – The plats for the canal system were found, which do not indicate any ownership of the canal. There is a statute that may allow for the Board to claim jurisdiction, which the Board may pursue in order to avoid legal complications from any other parties claiming ownership. The HWSD is tax exempt, so there would not be any tax liability, but there could be insurance implications. The plat describes the area in question as Tract A. Title work on the property would be required.

HWSD attorney Wayne Flowers presented the board with a refresher course on the Sunshine Laws (open meetings law). Wayne Flowers is available to the board members for any additional questions.

Comments and Questions from the Audience

No comments.

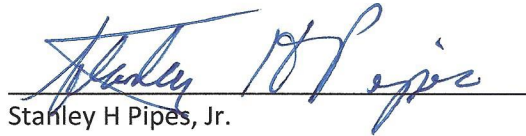
Adjournment

The meeting was adjourned at 7:53 PM. The next monthly Board of Supervisors meeting is scheduled for June 7, 2016.

Respectfully submitted,



Kathryn Boucher
Recording Secretary



Stanley H Pipes, Jr.
Secretary / Treasurer

HARBOUR WATERWAY SPECIAL DISTRICT

RESOLUTION NO. 2016-02

A RESOLUTION OF THE HARBOUR WATERWAY SPECIAL DISTRICT, DUVAL COUNTY, FLORIDA, AUTHORIZING THE CHAIRMAN OF THE BOARD OR THE SECRETARY / TREASURER TO SIGN AND EXECUTE AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR THE ASSIGNMENT OF A SOVEREIGN SUBMERGED LAND EASEMENT (No. 30187, BOT File No. 160219722) AND THE DREDGING PERMIT (No. 16-151419-003-EE); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Harbour Waterway Special District (“HWSD”), was established through City of Jacksonville Ordinance No. 2010-725-E (“Ordinance”) and given responsibility therein for maintenance of the system of canals located within the boundaries of the HWSD ; and

WHEREAS, the Ordinance was amended through City of Jacksonville Ordinance No. 2015-233-E and given responsibility therein for creating rules and regulations governing dredging; and the construction, maintenance or repair of bulkheads, docks, wharfs, boat lifts, and other structures located on and adjacent to the system of canals located within the boundaries of the HWSD ; and

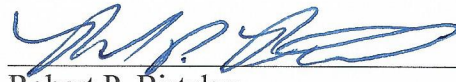
WHEREAS, the Board of Supervisors (“Board”) of the HWSD has determined that assignment of the Sovereign Submerged Land Easement (No. 30187, BOT File No. 160219722) and the assignment of the DEP Dredging Permit (No. 16-151419-003-EE) from the Harbour Waterway Association to the Harbour Waterway Special District shall provide a benefit to the HWSD in performing its duties to maintain the system of canals in the district.

NOW THEREFORE, BE IT RESOLVED by the Board of the HWSD:

Section 1. The Board hereby authorizes the Chairman of the Board, Robert P. Birtalan, or the Secretary / Treasurer, Stanley H. Pipes, Jr., to sign and execute on behalf of the Board the assignment of the Sovereign Submerged Land Easement (No. 30187, BOT File No. 160219722) and the assignment of the DEP Dredging Permit (No. 16-151419-003-EE) to the HWSD from the Harbour Waterway Association.

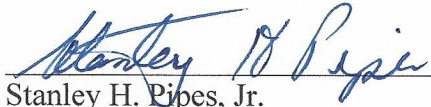
Section 2. This Resolution shall become effective upon adoption.

Passed and Adopted this 10th day of May, 2016.



Robert P. Birtalan
Board Chair

Attest:



Stanley H. Pipes, Jr.
Board Secretary

HARBOUR WATERWAY SPECIAL DISTRICT

2015 NON-AD VALOREM ASSESSMENT - DISTRIBUTION REPORT

04/30/2016

DATE	GROSS TAX	EARLY PAYMENT DISCOUNT	NET TAX	TC FEE	PA FEE	DISTRIBUTION
NOVEMBER						
1 - 9	16,000.00	(640.00)	15,360.00	(307.20)	(230.40)	14,822.40
10 - 18	30,000.00	(1,200.00)	28,800.00	(576.00)	(432.00)	27,792.00
19 - 30	99,000.00	(3,960.00)	95,040.00	(1,900.80)	(1,425.60)	91,713.60
DECEMBER						
1 - 14	18,624.11	(698.72)	17,925.39	(358.51)	(268.88)	17,298.00
15 - 21	2,253.04	(118.29)	2,134.75	(42.70)	(32.02)	2,060.03
22 - 31	14,000.00	(440.00)	13,560.00	(271.20)	(203.40)	13,085.40
JANUARY						
1 - 15	4,998.71	(114.98)	4,883.73	(97.67)	(73.26)	4,712.80
16 - 31	2,000.00	(40.00)	1,960.00	(39.20)	(29.40)	1,891.40
February						
1 - 15	N/A		-	-	-	-
16 - 29	2,000.00	(20.00)	1,980.00	(39.60)	(29.70)	1,910.70
March						
1 - 15	2,124.77	-	2,124.77	(42.50)	(31.87)	2,050.40
16 - 31	6,500.00	-	6,500.00	(130.00)	(97.50)	6,272.50
April						
1 - 15	2,499.37	-	2,499.37	(49.99)	(37.49)	2,411.89
16 - 30	N/A		-	-	-	-
May						
1 - 31			-	-	-	-
June						
1 - 12			-	-	-	-
<i>Unpaid Assessments</i>	15,000.00					
TOTAL DISTRIBUTIONS	200,000.00	(7,231.99)	192,768.01	(3,855.36)	(2,891.52)	\$ 186,021.13
% Collected	93.0%					
TOTAL TAX BILLED	215,000.00					

HARBOUR WATERWAY SPECIAL DISTRICT

Motion to Disburse Funds:

Tuesday, May 10, 2016

Date	Num	Description	Memo	Amount
<u>CURRENT ASSETS</u>				
03/31/2016		BB&T CHECKING ACCOUNT	BEGINNING BALANCE	\$ 254,311.99
		TOTAL DEPOSITS	April 1 -30	8,684.39
TOTAL CURRENT ASSETS				\$ 262,996.38
<u>CLEARED DISBURSEMENTS</u>				
03/08/2016	1152	Lewis Longman & Walker	HWSD - Legal Services (January)	(450.00)
04/12/2016	1153	Resurrection Episcopal Church	HWSD - Meeting Place (April)	(75.00)
04/12/2016	1154	Kathyrn Boucher	HWSD _ Administrative Services (March)	(150.00)
04/12/2016	1155	Stanley Pipes	HWSD - Web Hosting Services (4/03/2016 - 7/02/2016)	(59.97)
05/01/2016		Revenue Notes - Series 2012	Principal & Interest Payment	(73,024.00)
05/01/2016		Revenue Notes - Series 2013	Principal & Interest Payment	(67,994.90)
DISBURSEMENTS - SubTotal				(141,753.87)
04/30/2016				TOTAL ENDING BALANCE \$ 121,242.51
<u>OUTSTANDING DISBURSEMENTS / DEPOSITS</u>				
<u>REQUESTED DISBURSEMENTS</u>				
05/10/2016		Resurrection Episcopal Church	HWSD - Meeting Place (May)	(75.00)
05/10/2016		Kathyrn Boucher	HWSD _ Administrative Services (April)	(150.00)
05/10/2016		Lewis Longman & Walker	HWSD - Legal Services (April)	(325.00)
05/10/2016		FDEP	HWSD - Transfer of Easement	(650.00)
TOTAL REQUESTED DISBURSEMENT:				\$ (1,200.00)
<u>PROJECTED REVENUE - 2015 ASSESSMENT</u>				14,475.00
<u>PROJECTED DEBT SERVICE</u>				
11/01/2016		Revenue Notes - Interest Payment	Series 2012 & 2013	(4,070.40)
PROJECTED DEBT SERVICE EXPENSE:				\$ (4,070.40)
TOTAL HWSD DISPOSABLE FUNDS				
		BB&T CHECKING ACCOUNT	ENDING BALANCE after DISBURSEMENTS & DEBT SERVICE	\$ 130,447.11

OVERVIEW OF SUNSHINE AND PUBLIC RECORDS LAWS

I. GOVERNMENT IN THE SUNSHINE LAW

A. WHAT DOES THE LAW PROVIDE?

Section 286.011, Florida Statutes

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings, open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

In addition, Article I, Sec. 24 of the Florida Constitution includes language almost identical to that quoted above from Sec. 286,011, Florida Statutes, which covers not only its open meetings provision but also incorporates a right of access to public records. Thus, there are both statutory and constitutional requirements for public access to meetings of public bodies.

B. WHAT IS THE SCOPE OF THE LAW?

Florida's Government in the Sunshine Law, usually referred to as the Sunshine Law, provides a right of access to governmental proceedings of public boards at both the state and local levels. The law is applicable to both appointed and elected boards and has been applied to any gathering of two or more members of the same board to discuss some matter *which will foreseeably come before that board* in the future. There are three basic requirements of the law:

1. meetings of public boards must be open to the public;
2. reasonable notice of such meetings must be given; and
3. minutes of the meetings must be taken and promptly recorded.

Virtually all public bodies are covered by the open meetings requirements set out in the Constitution. In addition, a recent legislative act requires that citizens be given a reasonable opportunity to be heard at public meetings (See Sec. 286.0114, Florida Statutes).

C. WHAT AGENCIES OR BOARDS ARE COVERED BY THE LAW?

The Sunshine Law applies to “any board or commission of any agency or authority of any county, municipal corporation, or political subdivision.” It applies to both elected and appointed governmental bodies. It applies to committees of a covered board where two or more board members are participants. It can apply to an advisory board appointed by a board (even without members of the governing body being present), if the advisory board is delegated decision making functions or authorities. If the advisory board is given only fact-finding (as opposed to decision-making) authority (e.g., authority to make recommendations on an issue, but with decision making authority retained by the board) then the Sunshine Law does not apply. Note—meetings involving an individual board member can be subject to the Sunshine Law, if the individual board member is delegated decision making authority by the board the individual sits on (e.g., a board member is delegated the authority to meet with a vendor and make a decision on entering into a contract with vendor without the need for further approval of the board).

D. COMMON SUNSHINE LAW QUESTIONS AND ANSWERS

Does Sunshine Law apply to any and all discussions between two or more Board members?

Discussions/conversations that are covered by Sunshine Law are those between two or more Board members on matters on which foreseeable action will be taken by the Board. Thus, you can talk about the weather, your kids or your grandkids, restaurants, movies, etc., with another board member, just not about things that are currently the subject of Board business or may foreseeably be the subject of Board action in the future.

Phone conversations, e-mail communications, text messaging are all covered, just as are face to face meetings.

What about written communications between Board members?

The distribution/communication of written reports by one Bd. member to inform other Bd. members regarding a subject which will be discussed at a public meeting is not a violation of the law if prior to the meeting there is no interaction related to the report among the Bd. members. *A School Bd. member may prepare and circulate informational memorandum or position paper to other board members; however, the use of a memorandum to solicit comments from other board members or the circulation of responsive memoranda by other board members would violate Sunshine Law.*

What about conversations through intermediaries?

The Sunshine Law applies to meetings between a board member and an individual who is not a member of the board when that individual is being used as a liaison between or to conduct, de facto, meeting of Bd. members. *City Manager is not a Council member and thus may meet with individual Council members; however, the manager may not act as a liaison for board members by circulating information and thoughts of individual council members.* Staff members cannot be used to poll a board's members to feel out positions or be used to communicate messages from one board member to another.

Inspection Trips

The Sunshine Law does not apply to inspection trips (e.g. for purposes of fact finding) where two or more Bd. members are involved, but, no discussion of matters which may come before the Bd. may occur during the inspection trip. The same logic applies to conferences or other public meetings being attended by two or more board members—as long as there is no conversation or other dialog about board business, the Sunshine Law does not apply.

What about “inaudible” discussions before during or after public meeting?

Such discussions are covered. Just because two board members are in a room where a noticed meeting is occurring doesn't mean they can conduct a private discussion about board business which cannot otherwise be heard by others in the room.

E. WHAT ARE THE PENALTIES FOR VIOLATING THE LAW?

A covered official who knowingly violates the law can be charged with and found guilty of a second degree misdemeanor (max penalty—60 days in County Jail and/or \$500 fine). All other violations are considered non-criminal infractions punishable by fine not exceeding \$500.

Any action taken at a meeting that does not comply with the Sunshine Law is void.

If in doubt—don't do it!

The Florida Attorney General and the Florida Courts have repeatedly emphasized the following admonition:

“The principal to be followed is: When in doubt, the members of any board, agency, authority or commission should follow the open meeting policy of the state.”

Town of Palm Beach Gardens v. Grandison, 296 So. 2d 473, 477 (Fla. 1974).

II. PUBLIC RECORDS LAW

A. WHAT DOES THE LAW PROVIDE?

Section 119.01, Florida Statutes:

(1) It is the policy of this State that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.

Section 119.011, Florida Statutes:

(12) "Public records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Section 119.07, Florida Statutes:

(1)(a) Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Florida's courts have interpreted the definition of public records (in Sec. 119.011, Florida Statutes, quoted above) to include *all materials made or received by an agency in connection with official business which are used to perpetuate, communicate or formalize knowledge*. This includes draft documents and even personal notes, if made or kept in connection with official business and otherwise meet the definition of a public record. An exception with regard to personal notes is recognized if the notes were made simply for personal use maker to aid the maker in remembering certain things and are not otherwise circulated. Public records do include e-mails, letters, memos, photographs, etc. prepared, sent or received by a public official, if the document is connected to agency business. Entries posted on a social networking website by a public official are public records if they relate to agency business.

B. WHAT ARE THE RETENTION REQUIREMENTS FOR PUBLIC RECORDS?

All public records received or produced by an agency or an agency employee or governing board member must be retained in accordance with a retention schedule adopted by the agency, which must be consistent with the schedules established by the Division of Library and Information Services, which is a part of Florida's Department of State.

There are criminal penalties for knowingly destroying a public record, except in conformance with a retention schedule/plan that authorizes destruction of the record.