

Sebastian Inlet Tax District
Wednesday, March 11, 2020 4:30 p.m.
Regular Commission Meeting
Sebastian Inlet State Park Fishing Museum
Vero Beach, Florida

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, Bryan Flynn (ESA), Michael Donovan, concerned citizen, and Sebastian Inlet State Park Asst. Manager David Morris.

Under Agenda Item I

Call to Order – Chairman Lawton Seal called the meeting to order at 4:30 p.m.

Under Agenda Item II

Approval of the Minutes of the regular Commission meeting of February 12, 2020. Commissioner Mitchell made a motion to approve the minutes. Commissioner Frazier seconded the motion. **Motion carried 5-0.**

Under Agenda Item III

Information and Discussion Agenda

A. Media and Information – There was no discussion of the contents of the media packet.

B. Executive Director’s Reports

1. Proposed Guidelines for District Emergency Dune Repair Projects

Mr. Gray presented an updated, draft policy document with guidelines re: the use of sediment from DMMA and/or purchasing sediments from an upland source to complete emergency beach and dune repairs from R-10 to R-17 in the event of natural storm events, including but not limited to hurricanes. He noted sending it out to all Commissioners for feedback. Mr. Gray further indicated it did not need formal action by the Commission, but would serve as guidelines for staff to determine whether a project should be undertaken by SID. He detailed the document for Commissioners, noting that were an emergency final order issued by the Governor in response to a hurricane, SID would continue to look to Indian River County for needed permits to proceed, that any sediment-related project would count towards SID’s annual sand bypassing mandate from the State, and Mr. Gray added FDEP guidelines and graphics at the end. Commissioner Frazier asked for clarification re: the section with language relating to post-storm surveys and “if available”. When and how would those be directed and conducted. Mr. Gray detailed the semi-annual monitoring schedule and further indicated that the Commission may opt to have a qualified vendor conduct a survey after a named hurricane. Discussion ensued and Commissioner Mitchell noted that were an emergency order issued, a survey would be required to secure matching funds from the State. (See attached document)

2. Update on Channel Marker Red No. 30 Repairs

Mr. Gray reported that Summerlin Marine had completed repairs to channel marker #30, and based on prior discussion, SID purchased temporary buoys for quick deployment in the future. No buoys were found in storage at SISP.

3. Update on North and South Inlet Shoreline Repairs

Mr. Gray introduced Mr. Flynn from Environmental Science Associates (ESA) to provide an update and detail project design plans for the north shoreline. Mr. Flynn presented two options and detailed handouts provided to Commissioners, noting he met with Mr. Gray and SISP Park Manager Jennifer Roberts for a site visit and discussions three weeks ago. Permit packages have been prepared including both options by ESA. Relative to the north shoreline, both design options would protect the upland portion of the slope by the parking area, matching the gravel based - 6 to 10 inch - stone with a large stone toe that would blend into the existing jetty there by the tide pool. There is an existing steel bulkhead that remains there from the early 1900s. The gravel

would cover it and also provide added protection the general public accessing that area for fishing. Historical aerials show that this shoreline continues to migrate back/recede and that this area has been identified as susceptible to increased erosion. What we don't want is for this to migrate so far north that it starts to cut behind this area. That's why this project is more critical. From station 150-300 is where Mr. Flynn noted design differences for the Commission. Mr. Flynn noted one consideration as maintaining an adequate slope and design to accommodate the dredge pipeline corridor to the DMMA for projects every 4-5 years. Another important consideration; maintain access to that area as a popular fishing and recreational area.

Alternative 1: The design would tuck the toe into the revetment on the shoreline. Basically, the larger stones, approximately 3 ft. in diameter, would be wrapped around on the west side with more gravel out in front of it.

Alternative 2: The design puts a gap in the toe, effectively creating a small gap to allow for a pipeline corridor, and also a cove-like area that would be more conducive to maintaining recreational use to the area.

Commissioner Frazier asked what could be done post-project to help combat further erosion and recession, and noted that Alternative 2 had the toe extending further west to verify that would help stabilize a greater area in a known critical spot. Commissioner Mitchell asked if this is the only section on the north shoreline were a project was needed and Mr. Gray indicated it was. Mr. Flynn noted that there was some work to the north shoreline nearer the North Jetty that might best be addressed in concert with jetty maintenance. Commissioner Hendricks asked Mr. Flynn to detail the design/rocks by section and the current/future elevation. Mr. Gray indicated next steps would be to consult with the State Park on the design.

Relative to the south shoreline, repairs are to several areas extending from the catwalk down to the fish cleaning station. A permit is only necessary because work would extend out into water to replace the toe, stones in certain areas. Anything above mean high water, per FDEP and all regulatory agencies consulted, will not require a permit for work to proceed. More work here will be forthcoming.

4. FDOT/Easements Update

Mr. Gray updated Commissioners per a call yesterday with FDEP re: FDOT's PDE Study for the Bridge Project. He spoke with FDOT's environmental consultant who called to discuss the District's ROW within the SISP and potential recreational/environmental concerns a new bridge project would have. Mr. Gray as indicated that in 1963, SID provided an easement to FDOT for use/construction of the bridge. The instrument calls out from the center line of A1A, 120 feet to the East and to the West. It is a perpetual easement. Mr. Gray is working with Mr. Kirschenbaum and will respond formally to FDOT, but he wanted to make the Commission aware that he is staying focused on this and that's all he wants to share at this point.

5. Special Topic: COVID19

Mr. Gray shared Executive Order No. 20-52, dated March 9, 2020, issued by the Governor of Florida, calling Commissioners' attention to page 5 that deals with the governments of public subdivisions within the State of Florida. By reference of this section, we will still be able to function if we were shut down. Mr. Gray indicated that this sets us up for additional items for discussion tonight, referencing Commissioner Mitchell's question about future meetings and public requirements for any such meeting. Commissioner Mitchell wanted information on teleconferencing our Commission meetings depending on how the COVID19 situation develops. She further noted that while SID could easily go for a month without a meeting as compared to other government entities, no one knows how things will unfold and we may want to consider long-term contingencies now. Mr. Kirschenbaum indicated two issues that need to be considered: 1- Sunshine law, having a meeting in public, and 2-the establishment of a quorum to conduct business. The law is not settled. There are many conflicting attorney general opinions he read this afternoon. Under the Sunshine Law, if you have a quorum meeting here in the room, the other two members may call-in via telephone under special circumstances. However, the SID Charter provides that ½ of all SID Commission meetings be held in Indian River County, and ½ be held in Brevard County. There is a line of cases that says if there is a charter that requires meetings to be in a place then your quorum must be in that place. Meaning to have quorum, three people must meet in a place with the other two Commissioners calling in.

Also remember that meeting to solely discuss matters, and not to take action, Sunshine Law would be satisfied with all members calling in to an 800 number where members of the general public could also call in.

Additional discussion ensued about varied scenarios and ratifying any actions discussed at a later meeting.

Commissioner Mitchell asked if general direction could be given to Mr. Gray to maintain operations as needed in the interim, consulting with a least 3 Commissioners telephonically, so the Commission does not have to physically all get in the room together should further safety directives and measure be put in place. Mr. Kirschenbaum said yes, that was correct. Commissioner Hendricks questioned what limitations are currently in place with respect to Mr. Gray's authority that the Commission could amend right now so Mr. Gray could make needed decisions operationally for the near-term. Mr. Kirschenbaum indicated the only limitation applies to spending authority of \$10,000. Other than that, Mr. Kirschenbaum said he's your Executive Director, he can take operational activity he believes is appropriate. Commissioner Hendricks suggested now is an opportunity to amend Mr. Gray's spending authority up to \$50,000 since we are all here together now. Commissioner Frazier asked why we did not have a policy in place for emergency situations relative to the SID Executive Director's spending authority, agreeing that we may be wise to consider it. Commissioner Mitchell asked what of consequence Mr. Gray anticipated coming forward to the Commission in the next 6 months. Mr. Gray indicated that there would be some post-project monitoring over the summer. Mr. Kershaw indicated the audit was an actionable item for April's meeting currently scheduled for April 8 at the SID offices.

Chairman Lawton Seal asked if video conferencing would make a difference in terms of actionable solutions. Mr. Kirschenbaum indicated no, it would not based on current opinions, but this could be an extraordinary circumstance and governments/municipalities across the State are scrambling to figure out how to handle this.

Mr. Gray asked Mrs. Malyn to address plans for the scheduled May 2 community event; 7 weeks away at this point and in light of developing news and event cancellations. Mrs. Malyn indicated that Mr. Gray had asked her to prepare the one-page handout disseminated to the Commission as he wanted the Commission to make the determination on whether to move forward with the event. (see handout) Commissioner Mitchell indicated that in her opinion, this isn't a Commission decision and staff should handle making the call. Mrs. Malyn said her personal recommendation would be to cancel in the interest of public safety.

6. Discussion of Consent Agenda

- a. Authorized work for Commission Review: None at this time.
- b. Recommended for Approval:
 - i. FDEP Grant Agreement No. 20IR1-Amendment 1-Sebastian Inlet IMP Implementation

Mr. Gray outlined the Memo as included in the packets. Only adjustment is moving the date forward to receive reimbursement for project-related work that occurred prior to Jan. 1, 2019. Date moved to June 1, 2018.

- ii. Recommended Selection of Consultant for RFQ No. 20220001-Engineering and Biological Support Services for Maintenance of the Sebastian Inlet Dredged Material Management Area (DMMA)

Mr. Gray provided historical background on the DMMA and all maintenance to date, indicating a need for ongoing maintenance to properly maintain the site. Using a new procurement service, demandstar.com, SID posted the RFQ with 27 firms requesting documents, and 3 replies. Selection Committee was comprised of James Gray, Michelle Malyn and IRC's Beth Powell whose specialties include exotic maintenance and gopher tortoise relocation. Selection Committee ranked the following firms in the following order, and Mr. Gray recommends authorizing staff to enter into contract negotiations:

#1-Environmental Science Associates

#2-Atkins North America

#3-Taylor Engineering

Next month, Mr. Gray anticipates bringing a formal contract forward for Commission approval.

Commissioner Frazier asked what the terms of the contract awarded would be. Mr. Gray indicated it would be a 5-year contract with 5-year renewal option.

- C. Public Outreach Activities – Mrs. Malyn referred to a summary of activities in the Commission packets. Event cancellation discussed under COVID19 Agenda Item.

Under Agenda Item IVP

Park Matters – David Morris, SISP Assistant Park Manager

Mr. Morris reported that turtle indexing officially started on March 1. No nest to date. SISP did have a prescribed burn last week and had notified SID of park plans to do so in advance.

Under Agenda Item V

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

A. Discussion on the Proposed Executive Director Performance Evaluation Form

Mr. Kirschenbaum had sent out a proposed form that had been modified along with a proposed schedule for review. This is in keeping with previous discussions. Each Commissioner verified receipt. Chairman Lawton Seal is working on making it a fillable form so those who prefer to complete it electronically can and submit to Mr. Kirschenbaum by April 1. Commissioner Mitchell suggested that each Commissioner allocate some time to personally meet with Mr. Gray to review his or her evaluation of him.

Under Agenda Item VI

Public Comment Period – None.

Under Agenda Item VII

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

Under Agenda Item VIII

Commissioner Items –

Commissioner Mitchell, nothing additional.

Commissioner Frazier referenced attending a meeting with Mrs. Malyn re: the update/development of a new regional IRL Boater's Guide. The project is an RFP issued by the Indian River Lagoon Council/IRLNEP and awarded to the Marine Resources Council working in coordination with Florida Fish & Wildlife. The IRL Boater's Guide had not been updated since mid-1990s. Commissioner Frazier outlined the project for the benefit of all and thinks it will be a great resource once completed. Those who attended the meeting were asked to attend a training session to use a specially developed app to gather current data on fishing piers and marinas/restaurants, including those in Brevard and Indian River County. Commissioner Frazier volunteered to do data collection in Sebastian, Florida and Mrs. Malyn have volunteered to do the stretch down to the inlet and Sebastian Inlet. Commissioner Mitchell indicated it was an ideal opportunity to include seagrass habitat and protection information. Commissioner Frazier and Mrs. Malyn indicated that information will be included.

Commissioner Hendricks, nothing additional.

Commission Rowland, nothing additional.

Commission Chair Lawton Seal, nothing noted.

Under Agenda Item IX

Unfinished Business – Nothing at this time.

Under Agenda Item X

New Business – Nothing at this time.

Under Agenda Item XI

Adjournment – Chairman Lawton Seal adjourned the meeting at 6:03 p.m.



Secretary/Treasurer

Date

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