

JANUARY 12, 2011

The [Joint Meeting of the Lee County Board of County Commissioners and the Board of the East County Water Control District](#) was held on this date in the Buckingham Community Center, with the following members present:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS

Frank B. Mann, Chairman
John E. Manning, Vice-Chairman
Ray Judah
Tammara Hall (arrived at 6:33 p.m.)
A. Brian Bigelow

Staff Participants:

Interim County Attorney Andrea Fraser
Assistant County Attorney John Turner
Johnson Engineering Professional
Engineer Andy Tilton

BOARD OF EAST COUNTY WATER CONTROL DISTRICT COMMISSIONERS

J. Nathan Stout, Chairman
Desmond Barrett
Mike Bonacolta
Dave Deetscreek
Michael J. Welch

Staff and Special Counsel Participants:

District Manager David Lindsay
District Counsel Mary Viator
Special Counsel Ken Spillias
AIM Professional Engineer Lee Flynn

CALL TO ORDER/ROLL CALL:

Lee County Board of County Commissioners (BoCC) Chairman Frank Mann called the meeting to order at 6:30 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE:

The Invocation was given by East County Water Control District (ECWCD) Commissioner Desmond Barrett, followed by ECWCD Commissioner Mike Welch, leading the Pledge of Allegiance to the Flag.

WELCOME:

Chairman Mann and Chairman Stout provided introductions and brief comments. Commissioner Hall joined the meeting during the opening remarks.

OPENING REMARKS - ECWCD

After thanking all participants, ECWCD Chairman Stout expressed optimism for resolving the issue, consisting of several years of recurring litigation for the reimbursement of tax assessments paid by Lee County for the Hickey Creek Mitigation Park property they purchased from ECWCD. ECWCD Commissioner Desmond Barrett, reading [prepared comments](#), (copy on file in Minutes Office) presented the District's opening statement, including key historical points; the District's position; and a suggestion for a resolution outside of litigation.

OPENING REMARKS-LEE COUNTY

After BoCC Chairman Mann opened the subject to Board comments, Commissioner Judah suggested that the current funds in dispute be designated to help defray the costs of central sewer and/or purchase of land for water storage. At the Board's request, Assistant County Attorney John Turner provided a history of the issue; noted the County's position that there was no benefit being derived from the District, and stated that the methodology of assessment was also in question; and he explained how the governing statutes which require an annual appeal after tax role certification has led to recurring lawsuits. Assistant County Attorney Turner strongly advised the BoCC that any discussion on evidence of benefit be done in a judicial forum; under oath and subject to cross-examination, referencing a settlement previously offered the ECWCD, consisting of agreement to a percentage of the assessments already paid being reduced and then a reduction in the future assessment, with applicable years not solidly agreed to. Attorney Turner suggested that the parties might find common agreement in such a settlement, stating that such a resolution was one he could support if they could come to a speedy agreement.

PRESENTATION BY LEE COUNTY:

Following Attorney Turner's remarks and recommendations, Chairman Mann's presentation focused on an attempt to establish a starting figure from which negotiations could begin in terms of agreement on a percentage of reimbursement of assessment paid to ECWCD. Chairman Mann requested flexibility in addressing the issue of derived benefit, however Attorney Turner's advice to his client remained unchanged.

PRESENTATION BY ECWCD:

Chairman Stout’s position also remained unchanged in that he stated no monetary figure could even be guesstimated without first having some evidence or information supporting the conclusion of no receipt of benefit.

JOINT DISCUSSION:

Extended discussion ensued between the Boards and their staff, with considerable input from legal counsel, on the best way to pursue an agreement considering the continuing impasse. During the debate, the property’s history, pristine quality, and intended use of the property were once again brought up; the BoCC’s suggestion that these specific funds be directed for a public purpose county wide was reiterated and generated some support from ECWCD. Chairman Mann offered to meet individually with Chairman Stout, and to consider Commissioner Bigelow’s suggestion of adjustment of the number. Commissioner Manning joined the debate, ultimately suggesting that the two Chairmen meet but also include counsel and the engineers in order to exchange information in an informal setting; for the purpose of fact-finding. Then the next step would be formal mediation. Following further dialog and input from both parties’ legal counsel, Commissioner Manning further clarified that this meeting would be recessed to a date certain to be reconvened in this setting, with mediation to follow if agreement is not reached; with the issue then going to court if necessary. ECWCD Special Counsel Spillias concurred with the approach. Attorney Spillias clarified that since Lee County recently filed the law suit for the 2010 taxes, technically not a part of this discussion, that the case be added to this process in order to have a global settlement of all four lawsuits; and the Boards concurred. District Counsel Mary Viator did clarify that no negotiation on a percentage or dollar figure can take place at the fact-finding meeting; to which both Boards also agreed.

RECESS:

Chairman Mann recessed the meeting at 8:10 p.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)