

**MINUTES OF MEETING  
BROOKS OF BONITA SPRINGS & BROOKS OF BONITA SPRINGS II  
COMMUNITY DEVELOPMENT DISTRICTS**

The Boards of Supervisors of the Brooks of Bonita Springs & Brooks of Bonita Springs II Community Development Districts held a Joint Special Meeting on **Wednesday, December 18, 2013 at 1:00 p.m.**, at **The Commons Club at The Brooks Enrichment Center, 9930 Coconut Road, Bonita Springs, Florida 34135.**

**Present for Brooks CDD were:**

James Merritt	Chair
Jim Ward ( <i>via telephone</i> )	Vice Chair
Rollin Crawford	Assistant Secretary
Phil Douglas	Assistant Secretary
Bob Bonner ( <i>via telephone</i> )	Assistant Secretary

**Present for Brooks II CDD were:**

Joseph Bartoletti	Chair
Jim Strecansky	Vice Chair
Jack Meeker	Assistant Secretary
Ray Pierce ( <i>via telephone</i> )	Assistant Secretary
Gary Davidson	Assistant Secretary

**Also present were:**

Chuck Adams	District Manager
Dave Robson	Johnson Engineering
Dan Cox	District Counsel

**FIRST ORDER OF BUSINESS**

**Call to Order/Roll Call**

Mr. Adams called the meeting to order at 1:00 p.m., and noted, for the record, that Supervisors Merritt, Crawford and Douglas were present, in person, for Brooks of Bonita Springs. Supervisors Ward and Bonner were attending via telephone. Supervisors Bartoletti, Strecansky, Davidson and Meeker were present, in person, for Brooks of Bonita Springs II. Supervisor Pierce was attending via telephone.

Mr. Bartoletti explained that he requested a meeting of both CDDs to clearly understand the response given by the county to the Districts' request, at the October meeting, for further clarification with regard to what Lee County is proposing to do.

**SECOND ORDER OF BUSINESS**

**Public Comments (*agenda items only*)**

There being no public comments, the next item followed.

**JOINT MEETING ITEMS**

**THIRD ORDER OF BUSINESS**

**Discussion: Amended Emergency Outfall  
Responsibilities**

Mr. Cox recalled that the Districts built the emergency outfall structure after conveying the Three Oaks Parkway right-of-way to the county; however, the Districts neglected to obtain a permit to build it. The county was not happy when they discovered that the structure was on their property. The county called it a "homeless hotel" and saw it becoming a place for vagrancy and trash. Mr. David Graham, of the Bonita Bay Group and Chairman of the two (2) Districts, used much of his political capital to smooth the situation and get South Florida Water Management District (SFWMD), the county and the Districts to enter into an interlocal agreement, which states that the county wants no responsibility for the outfall structure. The Districts must operate and maintain it; if the county ever feels that it is a hazard, they can remove it and the Districts must pay for restoration of the property. Mr. Cox stated that it was clear to the Districts, at the time, and it was clearly reflected in the agreement, that the county wanted nothing to do with the structure. Now, it appears that the county would like to assume full operation and ownership.

Mr. Robson stated that he worked with Mr. Cox to uncover the history of the outfall structure and to find the document, which was not recorded, although it was fully executed. Mr. Robson distributed copies of the agreement and indicated that the Lee County DOT found the document first, which sparked the ownership issue.

Mr. Robson advised that, when he requested this meeting, he asked Mr. Acosta, the Lee County Design Engineer, to provide the latest update on the status of the design. Mr. Robson noted that the handout discusses the key points, from a design standpoint.

Mr. Robson advised that the draft narrative of The Brooks permit is what the county is proposing to submit to SFWMD. He explained that the county will modify The Brooks permit #36-00288-S and remove the emergency outfall structure's function from it. A similar document explains that the Three Oaks Parkway permit will be modified to bring the structure into it. SFWMD is in favor of the modification; therefore, the water quality treatment for that section of Three Oaks Parkway will be completed within The Brooks system. The modification will be to transfer the outfall structure to the Three Oaks Parkway permit and transfer the water quality treatment from the Three Oaks Parkway permit to The Brooks permit; that is the trade.

Mr. Davidson asked why the water treatment must be completed within The Brooks. Mr. Robson explained that, currently, for the Three Oaks section above the outfall structure, up to the weir and across from the fire house, it is very shallow; it has grass and water does not lie in it so it is referred to as a "dry treatment system" and the District receives water quality treatment credit. If there is a pool of water, the water must rise up and bleed out, slowly. Treatment credits are given for both methods.

The county is proposing that, with a deep ditch, the Districts must either raise the weir, to hold water back, to treat it, or have a low weir and consider the treatments completed elsewhere in the system. With the 72" pipes that connect the control structure to L-100, which is the flow way in The Brooks, the water goes into The Brooks system. The north section, Basin 1AA, had more than enough excess water quality treatment built into it to cover Three Oaks Parkway. Mr. Robson explained that the water that is coming off of Three Oaks Parkway is not being treated. The county is willing to say that the excess treatment, performed elsewhere, takes care of that water; therefore, a raised weir is not required in the water-filled ditch. Mr. Robson stated that a permit application to change to the outfall structure to the Three Oaks Parkway permit and a permit application to change the water quality treatment from the Three Oaks Parkway permit to The Brooks permit will be submitted to SFWMD.

Mr. Merritt stated that the ultimate change is that the county will be the permittee and the operating entity for the new emergency gate. Mr. Robson confirmed that the modified structure and permit will be transferred to Lee County. Mr. Merritt inquired about the operational aspect. Mr. Robson advised that the draft operating schedule is located in Exhibit 1. He indicated that, if Lee County's remote control fails, The Brooks can take over. Mr. Davidson pointed out that the

Districts do not have electricity to motorize the gates; therefore, the gates must be operated manually. Mr. Robson clarified that, if the remote control fails, there will be electrified manual control at the structure itself.

Mr. Davidson asked what would happen if, during a storm, sheet flow is coming down, the county's remote control does not work and the Districts do not have electricity. Mr. Robson noted that the gate would be lowered ahead of time during the cone of uncertainty of a storm.

Mr. Merritt indicated that the cone of uncertainty moves. Seven (7) days prior to a storm, the Districts may exercise certain operational authority. When the cone of uncertainty is no longer in effect, there have been several instances where storms continued; therefore, the operational policy must be reviewed. Mr. Merritt was uncertain whether the Districts are covered for the full aftermath of a storm. He advised that, if the county does not want to install a generator, they should at least install a plug so that Staff can utilize a portable generator. Mr. Robson noted that the design is not at the stage where a generator would be noted on the plans so he is not sure if the county is considering that. He feels that the county is trying to say that, if the Districts accept these conditions, their plan is to have the gates electronically controlled. Mr. Robson pointed out that the only way they can assure that is with backup power.

Mr. Davidson asked if, in the event of a storm, Staff must wait until the hurricane hits and the water levels have risen to 14.1' before they can begin draining. Mr. Robson clarified that the reference to 14.1' means if the flow way rises to 14.1', for whatever reason; it is not related to a specific named storm. Mr. Bartoletti explained that, seven (7) days prior to a storm, the county has the authority to lower the gate.

Mr. Davidson pointed out that one (1) of the conditions is that the water in the flow way must be at 14.1', in order to operate the gate. Mr. Merritt agreed.

Mr. Davidson asked if the gate can be lowered if the water levels are below 14.1'. Mr. Merritt advised that, if there is no storm, the gate cannot be lowered. He stated that the county is saying that, if the site is within the cone of uncertainty, the gate may be lowered. Mr. Robson clarified that there are two (2) conditions, A and B; if the flow way reaches a level of 14.1', the gate can be lowered. If the site is within the cone of uncertainty, the gate can be lowered. Either condition applies.

Mr. Bartoletti indicated that, as soon as the site is within the cone of uncertainty, the gate may be opened seven (7) days in advance, which he also understood to mean that it may remain open, once the cone of uncertainty passes. Mr. Merritt replied, that this is why he wants clarification.

Mr. Davidson noted that, according to the county's answer, the gate must remain open until the water level once again reaches 13.6'; then it may be closed.

Mr. Bartoletti referred to condition B and indicated that, hypothetically, the gates have been lowered because the site is in the cone of uncertainty. Mr. Robson confirmed that the gates will remain open until the site is outside of the cone. If the site is outside of the cone, the county will raise the gate. If the site comes within a new cone, the gate will be lowered again. Mr. Merritt stated that, if the water level is at 14.1', the gates may remain open indefinitely. Mr. Robson advised that condition A states that, if the water in the flow way is at 14.1', the gate will be set at 12'.

Mr. Merritt inquired about what 14.1' level flooding looks like. Mr. Robson indicated that spikes have occurred where the water went above 13.6', at the weir, and, at times, it increased to 14.4', in a summer storm; this is a 14.1' condition. Mr. Robson explained that 14.1' occurs during almost any summer storm sequence; however, the weir drops the water level to 13.8' or 13.9', quickly.

Mr. Merritt clarified that, any time the water level reaches an elevation of 14.1', there is authorization to discharge water, as long as it meets the downstream requirements. Mr. Robson noted that, since the weir was installed, the Estero River has never reached the 12' condition. The general opinion is that it would take a major storm surge for the south branch of the Estero River to reach that height.

Mr. Davidson asked how long it would take for the water level to decrease from 14.1' to 12', if the gate is opened, sheet flow continues for about one (1) week and one (1) major storm follows another. Mr. Robson stated that, with regard to sheet flow, it depends on how fast water is coming in, versus how fast it is going out. He noted that water flows out much faster at 14.1' than at 13.8' because 13.8' is slightly above the weir; at 14.1', the flow almost triples. The sheet flow would have to be coming in at a faster rate than the discharge for the water level to continue rising; otherwise, it will slowly drop.

Referring to the “key points”, Mr. Robson explained that, when the gate is at 14’ and it is not lowered to 12’, the capacity to discharge is 120 cubic feet per second (cfs). When it is at 12’, it increases to 160 cfs. If the level is above 14’, water will begin to flow out of the structure.

Mr. Merritt confirmed that the only outfall discharge is at the north emergency gate; there will be nothing below it. Those gates do not move. The gate will serve the north and the east; however, the major portion of The Brooks is in the southern outfall. Mr. Robson clarified that Spring Creek and part of Shadow Wood go to the south weir. Mr. Merritt indicated that the weirs are fixed and address the major discharge of water from The Brooks. The only discharge control that the Districts have will be at the north gate.

Mr. Robson stated that, before the level reaches 14.1’, the discharge will be at 120 cfs. When the level reaches 13.8’, the discharge will be at 50 to 60 cfs; when it reaches 14’ to 14.1’, the discharge will approach 120 cfs, going out the north, in addition to all of the flow going west. At 14.1’, the gate will be lowered to 12’ and the discharge, going north, increases to 160 cfs. Mr. Robson noted that, via the Coconut Road north gate, the discharge is 700 cfs. It is a long weir and, when the water level increases from 13.6’ to 14.1’, the calculation is over 700 cfs. Mr. Robson pointed out that the relief valve will be three (3) times larger than it is now.

Mr. Douglas indicated that the ditch, at the stationary weir, is full of garbage and it must be completely dredged as a part of this project. Mr. Robson explained that the 14’ weir will be removed and a new weir will be built that is 2’ lower to match the 12’ sill. Mr. Douglas asked if the area will be dredged. Mr. Robson stated that it will become a canal.

Mr. Merritt reiterated his request for the CDDs to have the ability and option to plug in and operate a generator.

Mr. Bartoletti referred to Page 2, of the response from Mr. Karuna-Muni, which states that “the proposed design eliminates the need for the west gate”. Mr. Bartoletti asked where the gate is located. Referring to a photograph, Mr. Robson advised that the gate will be removed, the existing opening will remain and additional openings will be added.

Mr. Merritt asked if there is a need for an interlocal agreement, from a legal standpoint, to protect the Districts. Mr. Cox explained that, if the Board Members want the Districts to have the ability to operate the gate, under any condition, it must be spelled out, with the county. Mr. Merritt voiced his opinion that an agreement is necessary.

Mr. Pierce requested a copy of the PowerPoint presentation from today's meeting. Mr. Adams advised that it will be disseminated to both Boards.

Mr. Crawford advised that, if the Districts transfer responsibility to the county, before entering into an interlocal agreement, the Board Members should carefully consider what the shift of responsibility entails, when it ends, when it begins and what the exposure is. Mr. Robson expressed his opinion that the Districts responsibility is to operate under the permit conditions; liability is incurred if something happens and the Districts did not follow the permit.

Mr. Crawford advised that the Board Members must designate responsibility and the protocol that must be followed.

Mr. Douglas asked when the agreement will be provided for execution. Mr. Robson assumed that the final documents would be provided by the February meeting. Mr. Robson recalled a question regarding whether a Board Member may be authorized to sign the documents prior to the next meeting. Mr. Cox advised that a special meeting must take place.

Mr. Davidson asked when the next meeting will be held and when the survey will be ready for distribution. He stressed residents must receive it in February or by mid-March, which means that it must be approved in January. The Board and Staff discussed holding a January meeting.

**FOURTH ORDER OF BUSINESS**

**Discussion: Spring Run Request for  
Irrigation Facility Easements**

Mr. Adams stated that this item was addressed at Staff level, based upon prior authorization and delegation of authority granted, via resolution, so there is no need for this item to be addressed. Mr. Ziegler will move forward with the necessary information.

Mr. Ward asked if this provides for an easement. Mr. Adams replied affirmatively.

**FIFTH ORDER OF BUSINESS**

**Other Business**

Mr. Merritt congratulated Staff and the Board Members on the recent newsletter. He advised that he received a number of positive comments with regard to the letter itself and the information that was conveyed.

Mr. Merritt indicated that, with the current movement toward incorporation, he received an email asking why the name of the two (2) CDDs is Brooks of Bonita Springs. Mr. Merritt was asked if the name can be changed. Mr. Cox explained that the Districts were created by rule, by the State of Florida Land and Water Adjudicatory Commission; therefore, the request would have to go before the Governor and cabinet.

Mr. Robson noted that, when the packet of information is disseminated to the Board Members, one of the documents they will receive is the ERP application. The application has a place for signature by the District. Mr. Acosta used the old Brooks permit and inserted James P. Ward on the application. Mr. Robson contacted Mr. Acosta to advise him that the document must be signed by the Chairman of The Brooks of Bonita Springs II CDD.

**SIXTH ORDER OF BUSINESS**

**Supervisors' Requests**

Mr. Bonner indicated that he emailed Mr. Adams, requesting that he review the street signs, throughout Coconut Road and Three Oaks Parkway, as they appear worn. Mr. Bonner asked Mr. Adams to provide a report at the February meeting.

Mr. Bartoletti requested a status of the Districts' communication with Taylor Morrison with regard to a payment to the Districts. Mr. Adams stated that he had a brief conversation with Mr. John Asher, who is the project manager. From what Mr. Asher understood from his discussions with Mr. Dewhirst, it sounded reasonable; however, the details must be discussed further. Mr. Adams noted that Mr. Asher sounded very positive. Mr. Adams will meet with Mr. Asher after the holidays.

In response to a question from Mr. Bartoletti, Mr. Adams advised that the project will consist of 90 single-family units. Mr. Douglas indicated that the development will be called Pebble Point at The Brooks. Mr. Merritt pointed out that it will impact the Districts revenue, considerably.

Mr. Strecansky asked why "The Brooks" can be used in the name. Mr. Merritt voiced his opinion that Bonita Bay will not allow them to do so. The community is not part of The Brooks.

**SEVENTH ORDER OF BUSINESS**

**Public Comments (*non-agenda items, only; four (4)-minute time limit*)**



There being no public present, the next item followed.

**EIGHTH ORDER OF BUSINESS**

**Adjournment**

There being nothing further to discuss, the meeting adjourned.

**On MOTION for Brooks of Bonita Springs by Mr. Merritt and seconded by Mr. Crawford, with all in favor, the meeting adjourned at approximately 1:45 p.m.**

**On MOTION for Brooks of Bonita Springs II by Mr. Davidson and seconded by Mr. Meeker, with all in favor, the meeting adjourned at approximately 1:45 p.m.**

**BROOKS OF BONITA SPRINGS &  
BROOKS OF BONITA SPRINGS II CDDS**


**December 18, 2013**

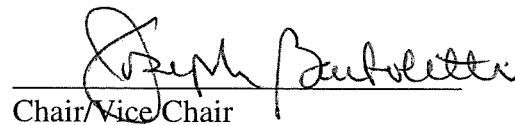
**FOR BROOKS OF BONITA SPRINGS:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair

**FOR BROOKS OF BONITA SPRINGS II:**

  
Secretary/Assistant Secretary

  
Chair/Vice Chair