

MINUTES OF MEETING
GATEWAY SERVICES DISTRICT

The regular meeting of the Board of Supervisors of the Gateway Services District was held Monday, February 10, 1992 at 4:00 P.M. in the District Offices, 113240 Commerce Lakes Drive, Fort Myers, Florida.

Present and constituting a quorum were:

Douglas Brown	Chairman
Steve Whitley	Secretary
Don Lazenby	Supervisor
Steve Hartsell	Supervisor

Also present were:

Rhonda Archer	Finance Director
Jim McNeil	Attorney
Gene Decker	Field Superintendent
Steve Morrison	Johnson Engineering
Andy Tilton	Johnson Engineering
Dave Caldwell	Westinghouse Gateway Communities

FIRST ORDER OF BUSINESS

Roll Call

Mr. Brown called the meeting to order at 4:00 P.M.

SECOND ORDER OF BUSINESS

Approval of the Minutes of the January 20, 1992 Meeting

Ms. Archer stated that each Board member had received a copy of the minutes of the January 20, 1992 meeting and requested any additions, corrections or deletions.

Mr. Whitley stated I have a few in Mr. Patrone's dissertation. On page 2, the fourth line from the top of the page, it states that we started our existing IRA type pension program when we had only Mr. Decker. We actually started that with Mr. Parmalee who was our only employee. The last line of the third paragraph on that same page, reads, "section code" and it should be "code section". On page 4, the third line of the second full paragraph, it is called an "immediate vesting" not "immediate vestment". On page 5, the tenth line from the top of the page, the word "those" should be "their". On page 6, the thirteenth line from the top of the page the sentence reads, "That is something a law firm

generally does." It should read, "That is something that a law firm generally does not do." On page 7, the third line from the top of the page in the vesting schedule, "60%" was left out. The first line of the next paragraph reads, "A pension plan which is shown as III D is a fixed benefit plan." Unless we append the outline that he passed out to these minutes, no one will ever know what III D means. That was his outline number. I have some questions about some of the things that we talked about but that is all of the corrections that I have.

Mr. Hartsell stated on page 22 on the motion with regard to the resolution on the University Site, I abstained from that vote. I have a potential conflict of interest and have filed the form with regard to Westinghouse, my firm represents Westinghouse and Alico and Omni.

Mr. Tilton stated on the first sentence on page 18, the word "slew" should be "slough". On page 25 under the seventh order of business the second line, "District" should be District's" and "permit" should be "permits"

Mr. Decker stated on the first page I need to be added as present at this meeting.

Ms. Archer stated you called Donna and told her and she has corrected that page.

Mr. Decker stated I just wanted it on the record.

On MOTION by Mr. Hartsell seconded by Mr. Whitley with all in favor the minutes of the January 20, 1992 meeting were approved as corrected.

Mr. McNeil joined the meeting at this time and stated he had been at the Sheraton for the Gateway presentation.

THIRD ORDER OF BUSINESS

Consideration of Encroachment into Easement Area on Lot 4A of Parcel 7, Fairway Lakes Office Park

Mr. Brown stated I believe we looked at this at the last meeting and we were going to get more information on it.

Mr. McNeil stated I believe Mr. Caldwell was going to get back to us with more information.

Mr. Whitley stated they have changed it quite a bit based on the information in our package.

Mr. Lazenby stated the Fire Marshall got in the act.

Mr. Whitley stated the Fire Marshall got in the act and the item that concerned us was the big bubble that was on the plans that they have now deleted. When I looked at this, on Exhibit B, if I read this right, our set back line is the seconded dotted line inside the property edge that runs along the property and you can see what the encroachment is. Without the bubble on it, there is not much of an encroachment. If the set back is 20 feet it appears to encroach at the maximum point by five or six feet.

Mr. Lazenby stated the Fire Marshall has done us a favor in that if we had to go from one end of the building to the other, we may have had some difficulty at the point where the bubble was.

Mr. Decker stated the Fire Marshall did us a favor because we had asked not to have any landscaping in that particular easement so we would have access. Now that we have this fire lane, we won't have to worry about that.

Mr. Brown asked Mr. Decker do you think it is okay now?

Mr. Decker stated Mr. Tilton and I reviewed the plans and I found them to be in order and I believe Mr. Tilton did too.

Mr. Tilton stated I concur with Mr. Decker and the Fire Marshall did an excellent job in providing the District access to the back. We were thinking of asking for an easement on the south side and with the fire lane access as shown, I don't think that is necessary.

Mr. Hartsell asked do we have a 10' set back from the building itself? There is 10' that shows as the concrete patio.

Mr. Tilton stated the 10' is the patio area.

Mr. Hartsell stated I was trying to figure out where the 20' maintenance easement or the 20' set back starts.

Mr. Tilton stated the easement starts from the edge of the water. The thing that is slightly confusing in this cross section is that there are actually two cross sections superimposed. You will see that one of them at the top says maintenance easement beyond and the one below it says maintenance easement. both of those start at the edge of the water but the edge of water is also moved. If you look at the next page, Exhibit A you will see a hand drawn item that is called "section" and then you will see another pair of arrows above that that says, "grade beyond", all of the items labeled in that cross section with the word "beyond" applies to the one that is upper in Exhibit A and all the ones that are labeled regular maintenance easements or property line are to the sections to the south.

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Mr. Hartsell asked is our maintenance easement 20'?

Mr Tilton responded 20' from the edge of lake at elevation 24. The lake and the building are not parallel, therefore, it moves relative to the 20'.

Mr. Lazenby stated the thing they haven't put in the cross section is the edge of the patio. It is not marked.

Mr. Hartsell stated it is 14.8' between the edge of water and the edge of the patio.

Mr. Lazenby stated it is nearly 15' I would think that would be enough room to get equipment through.

Mr. Decker stated it is enough room.

Mr. McNeil stated let me run through the requirements we put in the Eagle Pointe encroachment agreement which we will probably do the same thing with regard to this building.

No encroachment will be allowed that does not meet the following physical criteria.

No more than 40% of the total easement area may be encroached upon by any man made structure.

There must be a 6' unobstructed path measured from the rear lot line upland. This 6' path must be totally unobstructed to allow Gateway Services District personnel to perform any maintenance on the lake that may be necessary.

Let's put a minimum of 6'.

Mr. Hartsell stated I would think it would be closer to the 12' that they have on the drawing.

Mr. Lazenby stated you have to be consistent. We have already done this once. We don't want to have three sets of rules.

Mr. Tilton stated one of the things you may want to look at, the lot line in this case is in the lake. You may want to change that to some other wording if you intend it to be from the edge of the lake upland.

Mr. McNeil asked can I say control elevation?

Mr. Tilton responded that may be difficult for someone to understand but would be more technically correct or the edge of the water management easement. You can measure it from that and measure down.

Mr. Decker stated I think the best thing is to use elevation 24 which is the control.

Mr. Lazenby asked is that 24'?

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Mr. Decker responded that is vertical. That tells you that is where the lake begins, the water.

Mr. McNeil stated that leaves you a 6' path between measurement 24 and where their building can begin. We said a minimum but their plans call for 14'.

Mr. Hartsell asked are we talking about allowing an encroachment in a 20' easement as opposed to granting a variance to a 20' set back?

Mr. McNeil stated it is the former.

Mr. Hartsell stated I'm trying to think, what is that 20', where is that established.

Mr. Whitley stated it is a maintenance easement.

Mr. Lazenby stated that is a recorded easement.

Ms. Archer stated we don't have anything to do with set backs and variances for set backs but we do have certain maintenance easements that have been dedicated to the District to maintain its water management systems. In order for someone to construct something in our maintenance easement they have to obtain a permit from us to do that. We can't give a set back variance, that would be another agency.

Mr. Hartsell stated they would go to the county or someone like that. What we are doing here then is either establishing a precedent to follow in the future or following a precedent that was established at Eagle Pointe.

Mr. McNeil stated it is the latter.

Mr. Hartsell stated the question I have in my mind, is the 6' a good precedent to follow?

Mr. McNeil stated we can change that if you want to.

Mr. Hartsell stated 6' doesn't seem to me to be very much.

Mr. Lazenby stated in the case of Eagle Pointe, that is all they could live with.

Mr. Hartsell stated that is what I'm afraid of, on Eagle Pointe the absolute maximum they could live with was 6' but now we have one where 12' 8" is what they can live with.

Mr. McNeil stated let's change that to 12'.

Mr. Hartsell stated I'm trying to figure out if we are setting a pattern that we are going to follow in the future and if we are, what is the pattern? Are we saying we will consider these on a case by case basis?

Mr. McNeil responded that is basically the way it has been done.

Mr. Lazenby stated I think we have taken the position that we want to be as accommodating as possible because we are talking about end users and living within the system and as long as it didn't become impractical or unreasonable we approve it.

Mr. Decker stated I think each request will have variables. We have a 20' maintenance easement but each 20' maintenance easement will be different. There may be a catch basin that you can't allow anyone to get close to and there are all kinds of situations that vary.

Mr. McNeil stated I will continue with the requirements we have for Eagle Pointe.

No permanent man made encroachment may extend closer than 5' to each side line.

Does that give you enough room?

Mr. Tilton stated in this case it wouldn't. I would go back with a thought that Mr. Hartsell started with and that is possibly writing this one to better fit this plan, thereby requiring them if they wanted to change it and encroach further, they would have to come back to us. They are showing on their plan that the building won't get any closer than 25' to the side property line. That may be a set back in the commercial area.

Mr. McNeil stated I will put that in and see what they come up with.

Encroachments will not be allowed in easements which increases the living area or area under roof of the home.

Is this increasing the roof area?

Mr. Hartsell stated the patio is the problem.

Mr. Tilton stated according to what is shown on the cross section, that is not an under roof area. That was asked of Mr. Caldwell at the last meeting and he didn't know at that time and I don't know the answer.

Mr. McNeil stated I will put it in this way and we can work it out with them later on.

This is a clause that we put in last time which I can amend to fit our purposes here which I felt was good.

Each lot owner who takes advantage of the use of the easement area by constructing a permanent structure therein, agrees to be responsible for any special damages for additional costs incurred by the Gateway Services District for maintaining the lake adjacent to the lot.

I can amend that to indicate that the grantee of the easement who takes advantage of the use of the easement area.

Mr. Lazenby stated we had some conversation on Eagle Pointe that said we preferred not to have anything roofed primarily if we do have to impose the need to tear it down, it would be easier not to have it roofed. I wonder if we shouldn't maintain that position.

Ms. Archer stated we still have the roof language in there.

Mr. Brown stated I think we ought to have the same language in it if they are going to build anything and we have to go in for some reason, they have to take it out.

Mr. McNeil stated it will read, "encroachments not be allowed in the easement which increase the under roof area".

Mr. Hartsell asked will you add the exhibit to it and make it consistent with the exhibit they provided to us?

Mr. Lazenby stated that is a good idea and we ought to label that patio so we know what we are talking about.

Mr. Hartsell stated I'm looking at Exhibit B and I think the cross section is so confusing, I'm not sure it would add anything to it.

Mr. Lazenby stated yes but the cross section does have full measurements.

Mr. Brown asked Mr. Tilton if he understood the cross section or will it get us into a minor dispute?

Mr. Whitley asked who drew the cross section?

Mr. Tilton responded that came from a larger piece of paper from the builder/developer of the property.

Mr. Hartsell asked is Exhibit B a scale drawing?

Mr. Tilton responded yes.

Mr. Hartsell asked is there anything on the cross section that you would find helpful to be on Exhibit B?

Mr. Lazenby stated I would like to see some indication on what the measurement is from the patio slab to the easement line, so we know how much clearance we have. Is that difficult to do?

Mr. Caldwell joined the meeting at this time.

Mr. McNeil asked did they vote?

Mr. Caldwell stated they voted on two sites, now it is down to Gateway and Alico. They decided to have a full Regents meeting in Tallahassee within the next ten days, no presentations, only Regent discussion. The applicants can be there to

answer questions, but no presentation and then they will hopefully make up their mind.

Mr. McNeil stated the presentation Westinghouse put on was great and Byron did a wonderful job. The tone of the presentation was entirely different from anyone else's which set it apart. Everyone said you don't have to do this or that and Westinghouse did too but they went a step further and said this is an important undertaking and our kids are important, education is important and we want to be able to keep them here, what a wonderful thing for our society to have a university, how good it will be for generations to come and I was trying to be semi objective, you got the idea that here is someone interested in your community and I think that theme was underscored by Coral Springs, Pelican Bay and Pelican Landing and Gateway as it is so far. It was dynamite. Everyone else was sort of stereotyped, people flipping pages and saying we will give you a million dollars for this and so many sewer connections and it wasn't a structured sales pitch that you normally get from those things. It was, "we're interested and we want to do what is right" and the underlying theme is we have been around here and we have done it before. The others may be talking about it but we have done it.

Mr. Lazenby asked what is the area of contest?

Mr. Caldwell responded I don't know what they are looking for. Alico is going to have a lot of groups that are out against it.

Mr. McNeil stated I would like to give a report while we are on the subject. I have been in Fort Myers for 25 years and have seen a lot of projects come and go. Of course there has never been one this big but I started getting calls last week from various people wanting to see Gateway's bond offering statement which is the official statement. I got a call from Jim Moore to look at the offering statement then I got a call from someone with Hough & Company which is an underwriting firm.

Mr. Whitley stated they did the underwriting on Gulf Utilities.

Mr. McNeil stated he was about the third person who called and I was trying to stay neutral and I figured my business is mine and their business is theirs and I don't know what they are doing and they won't ask what I'm doing. I didn't ask anyone and after the third person called I asked why he wanted to see it and he said he didn't know, his boss told him to get a copy of it. By that time my curiosity had peaked to the point where I could control it no longer and I found out what everyone was looking for and it appears to me that when it comes to

furnishing utilities to the site, everyone is saying we will give you all of the utilities, I think Gulf made that claim, and apparently Gulf and Alico misconstrued Gateway's presentation and they thought Westinghouse was offering for the District to give all of the utilities with no connection charge and Mr. Moyer touched on that briefly in the minutes of the last meeting and said you can't do that, we are a user base system. Actually what happened was I think Westinghouse said they will supply X number of dollars so you won't have to pay, Westinghouse will pay for the utilities for a certain period of time. Then the plot thickens ever deeper because it turns out that the Omni parcel has got \$18 Million in revenue bonds levied on the property that if the City gives those up, they will be defeased. For anyone sitting in this room that is living in the City of Fort Myers, if they defease those things, I want you to get out your tax bill next year and you will see it on there, it won't be in red letters but you can bet we are all going to pay for it. I wonder if the general public in Fort Myers knows that.

Mr. Lazenby stated I wonder if you can do that without a referendum.

Mr. Caldwell stated Omni is out now.

Mr. McNeil stated the Alico presentation was very good. As far as the key elements in the presentation, the things that the Regents seemed to be interested in, one question was how much of a bank will you give us around the university site to control the development. Alico said they would initially give them 1/4 mile band all around the site and then increased that to 1/2 mile. It was a little fuzzy as to how they were going to allow the University to control that band. It was something like you will have the right to say what we should have in here but if we don't like it we will go with it anyhow.

Mr. Caldwell stated I had a feeling it was like a deed restriction. If you brought in a residential or commercial development it would have to go to the Regent staff and they would say, sorry that doesn't seem to be compatible.

Mr. McNeil stated I didn't think it was that strong. What Westinghouse's proposal was which I thought was good and really skirted two problems, they skirted that business about what goes on outside the University area but Mr. Koste said Westinghouse will give you 450 acres of buildable property. If that takes 500 acres, you will get 500 acres, if it takes 600 acres, you will get 600 acres, if it takes 700 acres, you will get 700 acres because so much of it may not be buildable. He is talking about 450 net acres. If it takes 700 gross acres to get 450 buildable, that's fine, if it takes 800 it would be alright. Was there a great deal of discussion?

Mr. Caldwell responded after the break, the agenda called for more presentations by staff and consultants, apparently that was waived and immediately after the meeting reconvened a motion was made that two sites be brought for consideration to the complete Board of Regents in Tallahassee within the next 10 days and they named the sites and it was adopted as a motion and the meeting adjourned.

Mr. Hartsell stated I thought they had the whole Board here.

Mr. Caldwell responded no, apparently there is a special part of the Regents who are just focusing their energies on site selection and I don't know how many Regents there are in total, maybe 20 because there were only about 8 or 9 present today.

Mr. Lazenby stated then they didn't get into any of the issues at all.

Mr. Caldwell responded yes, they did. Each presentation, the public element there were about 25 speakers for that, anyone could speak. Charlotte County had about 6 people who showed up to each make an individual push for their sites as well as the two sites, Babcock and Anson made 10 minutes presentations. All those issues aside, Charlotte County was about 1/3 of all of the public comment. All the rest were either people in favor of or opposed to the three Lee County sites. Gateway didn't have anyone speaking specifically in favor of, although there was some parties who spoke in favor of the Fort Myers site which they considered to be Omni or Gateway. Alico drew some fire from a lot of people.

Mr. McNeil stated especially on the DRI, they violate the Lee County Comprehensive Plan.

Mr. Lazenby stated that is going to be a hard issue to overcome.

Mr. Caldwell stated then each of the three landowners gave a presentation, they had 20 minutes to make a presentation and then the Regents could ask questions.

Mr. McNeil stated they asked how much and what kind of input the University system could have in outlying areas. What did Mr. Koste do, offer the planning staff?

Mr. Caldwell stated he committed the Westinghouse staff to be of assistance to getting the University situated both in its planning stages and as it develops over the years.

Mr. McNeil stated the only question that they didn't hit on hard was the dump.

Mr. Caldwell stated that came out as a non issue. Should the University come to Gateway, I think it will be like any other entity, it will have its own operating procedures.

Mr. Brown stated we have been discussing the encroachment.

Mr. Decker stated this is a bigger drawing if you find it helpful.

Mr. Hartsell stated my thought is if we had a scale drawing, even if it is not shown exactly what it is, they can figure it out if we incorporate this by reference into the document.

Mr. Lazenby stated that distance ought to be identified. That is the practical area that you have to deal with.

Mr. Hartsell stated I should have said the document from which Exhibit B was drawn because obviously Exhibit B is a reduction of the actual scale drawing.

Mr. McNeil stated I will incorporate Exhibit B.

Mr. Hartsell stated incorporate the document from which it is drawn, that way we will be able to scale it.

Mr. McNeil stated we will have to say in accordance with Exhibit B attached hereto and put a photo copy of that in.

Mr. Hartsell stated in that case Mr. Lazenby has a good point, we can put that scale or number in there.

Mr. Lazenby asked Mr. Decker what is the minimum you can live with?

Mr. Decker responded that is 14' 8".

Mr. Lazenby stated I think that ought to be enough and if there is a contest over it, at least we know the amount.

Mr. Hartsell asked Mr. McNeil if he had enough information to draw up the encroachment agreement.

Mr. McNeil stated what you are saying is it is 14' 8" to the closest point.

Mr. Lazenby stated it really gets back to Mr. Decker and his staff and what they require.

Mr. McNeil stated what we are saying is there must be a 12' unobstructed path measured from the control elevation upland. This 12' path must be totally unobstructed to allow Gateway Services District access.

Mr. Lazenby asked can we make that 14' 8"?

Mr. Hartsell stated the 12' doesn't relate to anything.

Mr. Tilton stated that may fit back to the first one that was done and that was a 5' encroachment of a patio on a private residence in Mahogany Run South. If you build it to fit exactly what is there and the Board is agreeable at that time, I

think that is reasonable and doesn't mean that this isn't more restricted than the last one we wrote.

Mr. McNeil stated I will go over what will go into the agreement.

No more than 40% of the total easement area may be encroached upon by any man made structure.

There must be a 14' 8" unobstructed path measured from the control elevation line upland pursuant to the exhibit.

Mr. Lazenby stated I think someone needs to measure that exhibit too.

Mr. McNeil continued, no permanent man made encroachment may be extended closer than 25' from each side lot line.

Encroachments will not be allowed into the easement which increases the area under roof of the building in question.

The grantee of the grantee of this easement who takes advantage of the use of the easement area by constructing a permanent structure therein agrees to be responsible for any special assessment for additional costs incurred by Gateway Services District for maintaining the lake adjacent to the site.

The grantee acknowledges that Gateway Services District has an interest in enforcing the provisions of paragraph E above and therefore may bring an action in court of competent jurisdiction for the enforcement of these provisions if after written demand to the grantee appropriate action is not taken.

Then there is a catchall indemnification clause which says, "any owner constructing any type of an improvement on the lake side easements of the lots covered herein, agrees to indemnify and hold Gateway Services District harmless from any actions, causes of actions, claims or damages including attorney's fees and court costs which may be brought by any party against the District as a result of injuries or damage, sustained by any party in the easement area". I will get that prepared and give it to Mr. Caldwell.

Mr. Caldwell stated Westinghouse is not the owner of the property, it is owned by Dr. Robert Rapp, Trustee.

Mr. McNeil stated I will have to get that information from you.

On MOTION by Mr. Hartsell seconded by Mr. Lazenby with all in favor Mr. McNeil was authorized to prepare the encroachment agreement as outlined above.

FOURTH ORDER OF BUSINESS

**Acceptance of Grant of Easement for
Water Management Lakes and
Structures in Basin 4 Area**

Mr. Whitley asked is the flow way between the front lake and the lateral lake? Is that the way it actually looks? It looks more rigid on the aerial photograph.

Mr. Tilton stated that is why it says, revised, it used to take a curve and it was modified. The easement was rewritten to fit that, but that particular drawing was an old sketch.

Mr. Hartsell asked are we going to use this sketch?

Mr. Tilton responded no, that sketch will not be used.

Mr. Caldwell stated the sketch was in your package for clarification but obviously it didn't clarify it.

Mr. Whitley asked how many of those lakes did we dig and how many did Westinghouse dig as part of the golf course?

Mr. Caldwell stated the District dug all of them.

Mr. Whitley stated then we already have an existing license on this and this is just finishing up.

Mr. Tilton stated it is turning the license into an actual easement. To make it clear, the easement on all of those lakes, contains the same 20' wide area from the control elevation upland onto whatever the adjacent property is, just as we discussed with the encroachment in the last item. That same 20' easement for maintenance is on all of these lakes also.

On MOTION by Mr. Whitley seconded by Mr. Hartsell with all in favor the grant of easement for the water management lakes and structures in Basin 4 Area was accepted.

FIFTH ORDER OF BUSINESS

Construction Status Reports

A. Water Management

Mr. Tilton stated there is presently no water management work being done by the District, unless you have a question on the system, I have no report today.

B. Water and Wastewater

Mr. Morrison stated the one item I will report on is Contract B-9 which is Florida State Underground and it is for the utility work on Commerce Lakes Drive

in front of the utility site between the utility site and State Road 82. The quality of the contractors work is excellent but we have checked their schedule and looked at the progress and projected that and we sent them a letter last week indicating that if they continue at their current pace we think they will be one to two weeks over their time limit and we are wondering what they plan to do to meet the time limit. There is talk about them putting a second crew on the project to complete it and we also notified them that they will be subject to any penalties and damages that the contract calls for.

Mr. Hartsell asked when is it scheduled to be finished?

Mr. Morrison stated I believe the scheduled date is March 1. Realistically, unless they do put multiple crews on, I don't think they will make that date. That was the original contract time and it was predicated on the original timing of the School Board. We did build in a one month window in our schedule. We told the School Board that we will be completed with our work by April 1 which I think we will be. As you are aware, the school has been delayed and I don't even know if it will be under construction by that time.

Mr. Hartsell stated we were facing a School Board deadline?

Mr. Morrison stated that is correct and we have a one month window in our schedule which I think we will meet if the School Board were still on schedule but they have slipped quite a bit. We have put our contractor on notice that they have a contract time with the District and we expect them to meet that or suffer the consequences. We have been down that road before and we don't necessarily look at the liquidated damages, we look at actual costs that the District incurs such as our time and Mr. McNeil's time.

Mr. Caldwell stated I think Mr. Morrison is right about the school issue, because they are not proceeding but the commitment was made to serve the school site by a date certain and we need to clarify that before we agree to a time extension.

Mr. Morrison stated they have not requested an extension.

Mr. Whitley asked why did the school site get delayed?

Mr. Caldwell responded bids were contested by the number three bidder, he claimed that the number one and number two bidders had not met the required specification and he requested a hearing before a hearing officer and the hearing officer has not ruled.

Mr. Whitley asked do they still anticipate having that school ready for the next school year?

Mr. Caldwell responded we have heard from the Lee County School Board that if the hearing examiners decision is issued soon, they will proceed immediately with a recommendation to get the contract awarded whoever it goes to. They will be off about six months on the building and they are saying they will bring in portables so the school can open on time. That will be a trick, I don't know how you open a whole school in portables but they say they can do it.

Mr. Morrison asked was it portables at this location or portables spread around in other schools?

Mr. Caldwell responded the portables would be at this location.

Mr. Morrison stated we may have to deal with temporary utility service issues.

Mr. Caldwell stated that is true but there are too many unknowns at this time.

C. Street Lighting

There not being any, the next item followed.

SIXTH ORDER OF BUSINESS

Staff Reports

A. Attorney

There not being any, the next item followed.

B. Engineer

There not being any, the next item followed.

C. Manager

Mr. Decker stated back at the beginning of time of Gateway, as the lakes were constructed the water flowed through an opening and the conveyance did not exist and what it did was just flow through the property, it didn't go over to the other side of I-75. Then we came along and constructed a conveyance and the water flow is through the conveyance, under I-75 and over to the lake and marsh area. At the time before the conveyance was built we conducted aquatic weed control. From the Department of Natural Resources rules and regulations we did not require a permit to conduct that aquatic weed control because the waters did not go anywhere but on our property. Once the conveyance was constructed then there was a question mark in my mind whether we needed one or not because eventually it ends up in the Six Mile Cypress. I contacted D.N.R. and asked for an application to get them to review to see if we needed a permit or not to continue conducting the aquatic weed control and I had to send them several maps and pictures and describe what was going on and it boiled all down to the only thing they were interested in was lakes that are 10 acres or more, they do not

care if the lakes are connected, just as long as the lakes are 10 acres or more. That brought two lakes on this side that possibly might come under that permit and of course, the other side of I-75. The regional biologist in this region from the D.N.R. came here the first part of January and we toured Gateway and looked at all of the lakes and how it flowed and inspected on the other side of I-75. I explained everything to him. When we were finished he exempted on the spot the two lakes on this side and said you don't need a permit here. The other side he had to go back and check with his superiors on it and he did that and I received a memo from the Department of Natural Resources and they have exempted G.S.D. from requiring a D.N.R. permit to conduct aquatic weed control. That is one permit we don't have to worry about.

Mr. Tilton stated I would like to make a slight clarification. When Mr. Decker was discussing before we had the conveyance from the middle of the property over to I-75 and the borrow pit west of I-75, the water always got from the end of the conveyance constructed to I-75 and on over to the Six Mile Slough. It just didn't have a defined route. We have better defined the route. It goes to the same place it always did.

Mr. Decker stated under the A-7 Contract which Westinghouse is doing, part of this lake which I believe was how many acres was it four?

Mr. Tilton responded two.

Mr. Decker stated two acres of the lake was filled in for a cypress head and then actually two different marshes on this side are being constructed. That has been accomplished with the exception of the planting. This will be done in the near future. We have to maintain those two areas and that was not part of this budget. At the same time Westinghouse has constructed a lake in Parcel 9 but only part of the lake has been constructed and is finished now and this lake has to be maintained and this is not part of this budget. To add these to our present aquatic weed contract we will need just under \$9,000. What I'm asking the Board to do is to approve to add the cypress and the two marshes and the lake to the present aquatic weed contract. This will be for seven months until this contract period is over, it will be right under \$9,000. In the meantime if we run into a shortage of funds, Westinghouse has agreed to reimburse the District for the monthly maintenance on the Parcel 9 lake. Now, in the water management budget we do not have any money in the aquatic maintenance but we do have \$9,000 in contingencies which we have not used and we do have \$2,596 under the grass carp that we did not use because of the good pricing we got on the last grass

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carp. So, the funds are there, it is just a matter of whether we can transfer those funds to this aquatic budget.

Mr. Hartsell asked will that leave us without any reserve for contingencies?

Mr. Decker responded as far as contingencies goes it would be at the very minimum.

Mr. Whitley asked where is the contingency in the Budget?

Mr. Lazenby stated there is a maintenance contingency of \$3,000.

Ms. Archer stated according to this financial statement we have already spent \$1,050 of it.

Mr. Whitley stated there is an operating supply contingency that is not in our package but it is in the budget.

Ms. Archer stated I will check on that and see why it didn't make it on the handout in the package.

Mr. Hartsell asked do you need action on this today?

Mr. Decker responded yes, I need to know we are going to perform this maintenance.

Ms. Archer stated the motion that Mr. Decker is looking for is to add this to our lake maintenance contract, you don't have to amend your budget for this, you can allocate your contingency budget toward the payment of the additional contract fee. He is looking for you to add these additional areas to the contract for the remainder of the year.

Mr. Lazenby asked what is the likelihood of other contingencies?

Ms. Archer stated you still have some contingency built into each one of your line items, even though it doesn't show up specifically as contingencies. For example under contractual services for landscaping, there is a little contingency in that item over the total contract amount and for maintenance there is a little in there also. In different areas you have a little bit built in, in case you have over runs on these line items.

Mr. Hartsell asked how much of the \$9,000 will be made up if in fact it is necessary to go back and ask Gateway for maintenance reimbursement on the other?

Mr. Decker responded \$2,040 that is the 8 months cost for the Parcel 9 Lake.

Mr. Hartsell stated then the \$9,000 doesn't include that reimbursement.

Mr. Lazenby asked why has this come up now?

Mr. Decker responded at the time that the present budget was prepared, the one marsh and one cypress head we had no idea when it was going to be done

because it was still in permitting. The lake in Parcel 9 was unheard of at the time of the budget so we couldn't budget anything for that.

Mr. Lazenby stated contingencies are designed for unanticipated construction.

Mr. Brown stated it doesn't take long for those aquatics to grow and cost us about three times what it would normally cost.

Mr. Decker stated the Parcel 9 lake which is a new lake just recently finished, already has hydrilla in it.

Mr. Whitley asked do we own the lake in Parcel 9?

Mr. Caldwell stated we are getting the easement prepared for the utility system and the lake.

Mr. Hartsell asked do we also need a letter agreement with Westinghouse to cover the maintenance of Parcel 9 or do you have that?

Mr. Decker stated I don't have that in writing.

Mr. Whitley asked why don't you bring that in writing as part of the grant of easement or as an attachment to it?

Mr. Caldwell responded we will do that.

<p>On MOTION by Mr. Whitley seconded by Mr. Lazenby with all in favor staff was authorized to amend the aquatic weed control contract to cover the lake in Parcel 9 and the cypress heads and staff is to review the budget to allocate the contingencies to cover the cost.</p>
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SEVENTH ORDER OF BUSINESS

Supervisor's Requests and Audience Comments.

Mr. Whitley stated last month when we were talking about the University site on page 19 of the minutes, Mr. McNeil made a statement and I wanted to ask him about it. We were talking about providing utility service to the University site and when I read that I had some questions.

"Mr. McNeil asked how does that affect the District, I assume the land where the University is is non taxable, so the District can't tax them, the only taxable parcels are the buffer zones you referred to and in those areas people will be paying Lee County taxes, City of Fort Myers taxes and Gateway taxes. "

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Don't we have water management benefit bonds outstanding that encompass all of Gateway at this point?

Mr. Caldwell stated you only have assessment bonds on the first assessment area which is about 1,500 acres.

Mr. Whitley stated I thought there was some down stream evaluation of how that would eventually affect all of the property.

Mr. Caldwell stated that is a pro rated expense right now for the down stream portion that is attributable and a pro rata share of the assessment area, yes, they paid their part of the assessment but those were assessed against the 1,500 acres of the first assessment area.

Mr. Brown stated I was thinking about the water agreement with the County, we were discussing that a month or so ago. What is the update on this, what do we need to be doing?

Mr. McNeil stated Mr. Moyer answered that at the last meeting and if I recall he mentioned specifically that he had it hammered out with George Reilly, but then Mr. Reilly got fired and he didn't know who he was going to hammer it out with after that.

Mr. Morrison stated Darryl Walk is the Acting Director of Utilities. I have talked to Mr. Walk and he is somewhat familiar with our agreement and Mr. Moyer is in the process of making some revisions to the agreement which we will get back to Mr. Walk and then set up a meeting to make sure he understands all of the points and that we have addressed Mr. Reilly's concerns that he had when we last met with him. All of the Commissioners have been talked to about four to six months ago and none of them had any major problems with the agreement at that time or with renewing it. As soon as Mr. Moyer has the agreement re-drafted, we will go forward with that process.

Mr. Brown stated I would like to have an update at the next Board meeting to see exactly where we are at.

Mr. Whitley asked what is the status of the park? Is it still on hold with the County?

Mr. Caldwell stated it is still on hold with the County. Certain Commissioners had expressed the desire that it not be brought up and this was several months ago because of so many things going on.

Mr. Whitley stated I have the financial statements and I have some questions about them. Page 1 on the balance sheet, there is a "due from the w/s fund for \$171,000. On page 2 under the liabilities & fund equity, under the water

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and sewer fund, there is a liability due to the general fund of \$121,000. Where is the balance?

Ms. Archer stated we moved another \$50,000 over that we posted to cash control when we are moving them back and forth and it didn't get cleared out. It is a total of \$171,000 and I believe since we did these financial statements, we moved them back already. It goes to a control account between the funds, like a transfer in and transfer out.

Mr. Whitley stated when you get over to the total for all funds, shouldn't those numbers come back to balance it somewhere?

Ms. Archer responded it should. I will figure out why it doesn't, but it should.

Mr. Whitley stated the next question I have is we have \$5,043.56 item called, "due to pension fund", but we don't have a pension fund.

Ms. Archer stated we are accruing the funds so that we can pay it once we have a pension fund.

Mr. Whitley stated we only have two people and the maximum it can be is \$4,000 for any one fiscal year.

Ms. Archer stated this is for two fiscal years.

Mr. Whitley stated we can't contribute to a pension plan for them in this year that applies to the last fiscal year because we didn't have a plan in place.

Mr. Hartsell stated I thought we had more than two people who were eligible.

Mr. Whitley stated we had two people we had decided to fund IRA's for. The third one was going to be eligible later this year.

Mr. Decker stated the Board approved funding the pension for me and Mr. Handlin. There are other people eligible but they have not come before the Board for approval because we don't have a pension plan.

Mr. Whitley stated we shouldn't have more than \$4,000 to be funded into the pension plan.

Ms. Archer stated I will come back to you with where that number came from and you can tell me if I can do that.

Mr. Whitley stated under the Street Lighting Fund we have a credit balance and a "due from Developer" and I am assuming the \$325,671.16 liability is the financing agreement.

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Ms. Archer stated they will net each other out but we try to keep them separate so we can keep track of what they need to fund us and what we eventually need to reimburse them for, short term versus long term.

Mr. Whitley asked when do we get money from the Tax Collector? It seems that by the end of December we should have gotten more than \$3,000.

Ms. Archer responded it really depends on when the major landowner pays his taxes.

Mr. Caldwell stated usually we pay them at the end of November, but I don't know when this was paid.

Mr. Whitley stated I think it would be interesting to know because that is a major number and if you paid them in November, why is the Tax Collector holding on to them until after December?

Ms. Archer stated he only funds once a month, the month after he receives the money and he distributes the interest earnings on it quarterly. If they paid in December we will not receive the check until January.

Mr. Whitley stated under the water and sewer fund, why are we over budget on salaries and wages?

Ms. Archer stated I noticed that too and I wanted to ask Mr. Decker if it is because they are spending a little bit on overtime?

Mr. Decker stated we have two plant operators, one is on salary. The plant has to be checked one time on the weekend by one of those operators. The salaried operator checks it one weekend and the hourly operator checks it the next weekend. It doesn't seem to me that it would be because of overtime.

Ms. Archer stated we are under budget under plant so it could be the allocation of the salary. I will check the allocation and get back to you.

Mr. Decker stated the salaried operator also does work in the field and there was some field work to do after hours. It was before the first of the year in Pine Wood Lakes we had a water service break and there was overtime for him because it happened at 5:00 P.M. Also an hourly worker is paid time and a half on weekends.

Mr. Whitley stated in the process of preparing our budget it is necessary that we take into account the fact that you are going to have overtime on emergencies and other things and we have to make certain our budget has the money to cover it. It looks like it might be an allocation problem rather than an overtime issue.

Mr. Whitley stated as small as it may be we have revenue in the street lighting fund. Does that come on the utility bill or the non ad valorem?

Ms. Archer responded it is on the utility bill and the standby bill. The standby bill gets billed quarterly.

Mr. Whitley stated we got a little bit of maintenance taxes in which is non ad valorem but we didn't get any debt service benefit taxes in from those same bills. I don't know how you pay one without paying the other. Shouldn't we have revenue from both places?

Ms. Archer responded when the taxes come in it is usually an allocated percentage for the benefit taxes because we don't receive that much in, we just send a percentage to the trustee for that. When the large money comes in we will give the trustee what he needs to pay the interest payment when it comes due.

EIGHTH ORDER OF BUSINESS

Approval of Invoices and Requisitions

Mr. Hartsell stated I have a question on page 2 of the check register under landscape management. Under "add or replace irrigation heads" we have about \$800.

Mr. Decker stated our landscape contractor is responsible for replacing that. He had heads that were broken at the time he signed the contract, however, these are heads that we have added because we found certain areas were not being irrigated properly and we needed additional heads and we pay for that.

Mr. Hartsell stated then this is for adding heads and not for replacements.

Mr. Decker stated that is correct.

Mr. Hartsell stated the Gold Coast Self Storage, what is that for?

Mr. Decker stated we have had that for over a year and we have spare street light equipment, bulbs and heads and that type of thing that we have no place to store them and we rent a small space to store that type of thing.

Mr. Hartsell stated we may want to consider doing something like that ourselves. It may not be worthwhile now but later on it may be.

Mr. Lazenby stated that is not the only cost involved, you have personnel time in going to the storage place.

Mr. Brown stated it seems like we are in between being too big or too small and probably in the next couple of years we may do something by the chlorine sheds.

Mr. Whitley asked is there any storage space where the field office was?

Mr. Caldwell responded that has been eliminated. That is now the equestrian center. I think in time the District will have adequate storage facilities on site. Right now it is an issue of capital.

Mr. Morrison stated I would like to request that four requisitions be added to your water and sewer bond list. Ms. Archer has those and I will read them to you. Requisition No. 174 payable to Guymann construction \$8,810.00 and that was for cleaning the evaporation percolation pond. Requisition No. 175 which is payable to Gateway Services District in the amount of \$1,595.00 and that reimburses the District for funds they spent for seeding and grassing and sodding on that pond. Requisition No. 176 payable to Ardaman & Associates in the amount of \$1,592.24 for density tests that were taken on the road crossings for utility Contract B-9. The contract documents calls for the District to pay all of the density tests except those tests that fail the first time, the contractor pays for any re-test and we will back charge for any re-test at the end of the job. Requisition No. 177 payable to Florida State Underground in the amount of \$111,579.03.

Mr. Caldwell stated on Florida State Underground there are material invoices that are being requested for payment, how do you back out the material?

Mr. Morrison responded we add all of the work they have done plus all of the material they have stored and then we subtract what we paid for last time and that automatically does that. They are not double billing us for material plus material on the ground. We did pay them for material stored on the site the first time and we did get lien releases for that portion of the payment from the suppliers. The material was stored on the utility site except for what they are using.

On Motion by Mr. Hartsell seconded by Mr. Whitley with all in favor the invoices and requisitions were approved for payment to include the requisitions listed above.

Mr. Morrison stated I have one more thing I want to mention. From the day we approve these invoices it takes about two weeks before they get their check, is that the normal procedure?

Ms. Archer responded I think that is because of some problems with the trust company with them changing.

Mr. Morrison stated by the time they get their money, they have completed much more work that was in the pay request. That is something that we keep in

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the back of our mind when we approve the pay request. We never over approve it but we always know that if they continue the work, they will have more work done.

Mr. Lazenby stated someone signs off on those requisitions.

Mr. Morrison responded we do that. Our inspector came out last Friday and checked all of the work, measured what they requested to make sure that everything was okay and we rejected the first request and this is a revised request, that is why it got here so late.

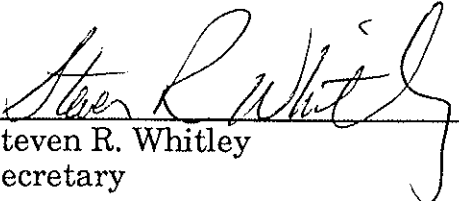
Mr. Lazenby asked is there a critical path program in place on those construction projects?

Mr. Morrison responded I'm sure the contractor has his own schedule.

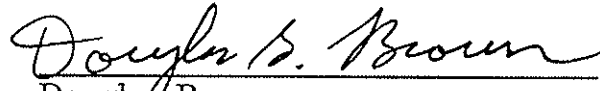
Mr. Lazenby asked is this something that you monitor?

Mr. Morrison responded we did get a schedule from him early in the contract but it is not something that we monitor. We did take a look at what was completed and what was left to do and realized that unless he speeded up he wasn't going to make the time.

Meeting adjourned at 5:55 P.M.



Steven R. Whitley
Secretary



Douglas Brown
Chairman

**Agenda
Gateway Services District**

Monday
February 10, 1992
4:00 P.M.

District Offices
13240 Commerce Lakes Dr.
Fort Myers, Florida

1. Roll Call
2. Approval of the Minutes of the January 20, 1992 Meeting
3. Consideration of Encroachment into Easement Area on Lot 4A of Parcel 7, Fairway Lakes Office Park
4. Acceptance of Grant of Easement for Water Management Lakes and Structures in Basin 4 Area
5. Construction Status Reports
 - A. Water Management
 - B. Water and Wastewater
 - C. Street Lighting
6. Staff Reports
 - A. Attorney
 - B. Engineer
 - C. Manager
7. Supervisor's Requests and Audience Comments
8. Approval of Invoices and Requisitions
9. Adjournment