

**BOARD OF SUPERVISORS SPECIAL MEETING MINUTES OF THE SAN CARLOS
ESTATES WATER CONTROL DISTRICT HELD FEBRUARY 10, 2025, AT 2:00 P.M. AT
THE GULF SHORE CHURCH, 25300 BERNWOOD PARKWAY, BONITA SPRINGS,
FLORIDA 34135**

1. Meeting called to order at 2:00 p.m.
2. Attendance – Board of Supervisors: Chair and President, Jim Bradford; Vice Chair and Vice President, Jennifer Finazzo; and Supervisor James Gilchrest; Engineer Ron Edenfield; Attorney Richard Pringle; Manager and Superintendent of Operations John Cellucci, Secretary and Treasurer, Shanelle Cruz; Attorney Bernard Lebedeker (via telephone); Attorney Jeffrey Pepin (via telephone), the court reporter; and two (2) guests, Mr. Dan Schloegel and Mr. Nodzo.
3. Pledge of Allegiance and Invocation.
4. Chair Bradford opened the meeting asking whether we should proceed with public input. Attorney Pringle interjected to describe the special nature of the meeting to the members of the public who are present so they understood the purpose of the special meeting before the public input section of the meeting. Attorney Pringle stated the special meeting of the Board of Supervisors of the San Carlos Estates Water Control District was properly noticed and described the two topics of the special meeting in accordance with Florida statutes.

One topic is to consider retaining special litigation counsel to represent the District in the action filed by Manuel Monteiro and Elisabetta Monteiro against the District in Lee Circuit Court Case No. 24-CA-007843. Attorney Lebedeker introduced himself and Attorney Jeff Pepin. Attorney Pringle advised Attorney Lebedeker's firm will require the District to provide a retainer of \$3,000.00. Attorney Pringle advised the requirement of a retainer is not unusual to cover out-of-pocket costs and fees and that invoices will be sent to the District for payment. Attorney Lebedeker's firm will charge \$300.00 per hour for attorney's time and \$125.00 per hour for paralegal time. Attorney Pringle stated Attorney Lebedeker's firm's hourly rate for attorney's fees is a substantially reduced hourly rate from what their firm normally charges. Attorney Pringle stated Attorney Lebedeker has a background and expertise in terms of a recent representation of a water control district with very similar facts.

Attorney Pringle described the second topic of the special meeting is for the Board to enter into an executive session (closed session) to discuss the pending litigation, settlement strategies, costs of litigation and ways to avoid or minimize those costs.

Attorney Pringle then provided Attorney Lebedeker the opportunity to discuss his representation of the District and give a brief overview, including any reference he wished to make to the Indian Hills (Trails) case. Attorney Lebedeker then discussed the Indian Trails case scenario and special districts in general. Upon Attorney Lebedeker's conclusion of his discussion, Chairman Bradford asked whether the public had any questions.

Guest Dan Schloegel asked about the Monteiro lawsuit as he and some of his neighbors were unclear of the facts surrounding the lawsuit and cost of same. Attorney Pringle discussed the: 1) history relating to the Monteiros' property; 2) the dispute between the Monteiros and the District; and 3) the options the District offered to the Monteiros and rejected by the Monteiros. Option one was if the Monteiros wanted to continue to use North Strike Lane, an existing paved road, then they would need to pay the same assessment that the landowners pay to the District for maintenance, because they have the same benefit as the landowners in the District to use the District's roadways. The other option presented was an option of using the unpaved roadway along the canal that his (Monteiro's) predecessor (Hedden) used a long time ago to access the property. That roadway is not paved and it comes right off of Strike Lane, right next to the canal, right across the railroad track, and goes right along the canal. The rest of that offer from the District was that the Monteiros would need to improve that right of way to use that right of way. Monteiro's response was to sue the District as he did not want to do either of those options. Attorney Pringle further stated these options were offered to the Monteiros in the past and Attorney Pringle believes Mr. Monteiro may have agreed to both of these options, which ever one of the options the District selected, Monteiro agreed to do something to work out an arrangement but has now reneged on that and has stated he will not do anything, but will sue the District. The basis of the Monteiros' lawsuit is that the roads are public roads, open to the general public, and the Monteiros have the right to cross the roads without paying the same money as a landowner pays to use the roads. Attorney Pringle stated both he and the District disagree with the Monteiros' position. Attorney Pringle acknowledged a lot of inaccurate misinformation has unfortunately been circulated (by others). Mr. Schloegel asked if there was an exemption on the property given by the prior Board to which Attorney Pringle replied no. Attorney Pringle further stated the predecessor in title to the Monteiros, Mr. Hedden, who previously owned the 22 acres, filed a lawsuit against the District to exclude his property from the District. The lawsuit resulted in a settlement whereby Mr. Hedden gave an easement to the District for the 60-foot canal right of way, but the District did not give an easement back to Mr. Hedden. Mr. Hedden drove across the railroad tracks and drove along the canal in the maintenance right of way to his property. That is all that ever occurred. The property is not part of the District.

Attorney Lebedeker spoke to the issue of the District avoiding the lawsuit and the problem with the District not defending the lawsuit and that this is not a situation of the District

instigating the lawsuit. The District settled the first lawsuit (Hedden), and now the successor in interest (Monteiro) is suing the District because he wants more. Attorney Lebedeker also cautioned that while the Monteiros' property is a long and thin 22-acre parcel it is subject to being subdivided and it would be a different ballgame if 22 people with one-acre parcels are using the District's roads. Attorney Lebedeker stated that in his opinion that is what is happening in Indian Trails where you have unpermitted connections to District roads, particularly where people outside the District are making connections to District roads, you want to take action in a fairly aggressive manner because the folks who are using the District road are never going to pay unless they are residents of the District.

Supervisor Gilchrest stated that in his opinion based on the comments made by Attorney Lebedeker that if the District does not respond by getting judgments in the District's favor now, the District will probably die a thousand cuts in the future. The District could face other property owners wanting to be out of the District as well. Mr. Nodzo offered his appreciation for clearing up the matters.

Manager Cellucci discussed the importance of some of the facts surrounding this lawsuit must be kept confidential during the litigation to protect the District.

Chairman Bradford made a motion to hire Attorney Lebedeker's firm to represent the District as special litigation counsel. Supervisor Gilchrest seconded the motion. Supervisor Finazzo voted "Aye". Motion carried. Chairman Bradford thanked Attorney Lebedeker and Attorney Pepin.

A brief recess occurred. After the brief recess, the Board entered into an executive session at _____ p.m., as authorized by Section 286.011(8), Florida Statutes, to discuss the pending lawsuit filed against the San Carlos Estates Water Control District as Defendant, by Manuel Monteiro and Elisabetta Monteiro, as Plaintiffs in Case Number 24-CA-007843, in the Twentieth Judicial Circuit in and for Lee County, Florida. The individuals in attendance were: Board of Supervisors: Chair and President, Jim Bradford; Vice Chair and Vice President, Jennifer Finazzo; and Supervisor James Gilchrest; Attorney Richard Pringle; Manager and Superintendent of Operations John Cellucci; Attorney Bernard Lebedeker (via telephone); Attorney Jeffrey Pepin (via telephone); and the court reporter. At the end of the executive session, the Board of Supervisors reconvened the normal portion of the special meeting at _____ p.m. Chairman Bradford made a motion to adjourn the special meeting. Supervisor Gilchrest seconded the motion to adjourn. Supervisor Finazzo voted "Aye" and the motion to adjourn carried at 4:32 p.m.