

**SEMINOLE COUNTY PORT AUTHORITY  
MINUTES OF THE REGULAR BOARD MEETING  
OCTOBER 19, 2022**

The regular Board Meeting of the Seminole County Port Authority was held in Conference Room 26 of the Seminole State College Center for Business Development on October 19, 2022.

Chairman Matthew Criswell called the meeting to order at 4:01 p.m. with the following Directors constituting a quorum: Matthew Criswell, Chairman; Michael Caraway, Treasurer; Bill Spivey, Secretary; Dana McBroom, Member; Cliff Miller, Member; Amy Guilfoyle, Member; Harry Ellis, Member; and Andria Herr, BCC Member.

Members Absent: Susan Sherman, Vice-Chairwoman.

Staff present: Andrew Van Gaale, Administrator; and Jennifer Sykes, Business Office Manager.

Also, present: Steve Coover, SCOPA Attorney (telephonically); Joey Pozo and Jessica Davis, Marinas, LLC; and Debbie Mondin, Water Specialist Environmental Technologies, LLC.

An invocation was given by Matthew Criswell followed by the pledge to the Flag.

Chairman Criswell welcomed the guests and opened the floor for corrections or additions to the minutes of the September 21, 2022, meeting. None were presented.

**MOTION WAS MADE BY BILL SPIVEY, SECONDED BY COMMISSIONER HERR TO APPROVE THE MINUTES OF THE SEPTEMBER 21, 2022, BOARD MEETING, AS PRESENTED.**

**MOTION CARRIED UNANIMOUSLY.**

The Administrator presented the Balance Sheet and Budget Statement for the month of September 2022. The Administrator reported that revenues for the month of September were over budget by \$31,192 and \$305,692 for the year-to-date. Expenditures for the month of September were under budget by \$78,395 and remain underbudget by \$1,254,375 for the year-to-date. The Administrator reported that occupancy for year maintained at 99.9%. He also informed the board that the annual audit was scheduled for October 24<sup>th</sup>. The \$400,000 budgeted surplus fund contribution check was given to Commissioner Herr to present at the next County Commission meeting. There were no questions or comments on the September 2022 financial statements.

The Administrator presented the Outstanding Bills list for October 19<sup>th</sup> and November 1<sup>st</sup>.

He explained that the October bills were light and that there were only three roof leaks after Hurricane Ian. He also pointed out the standard first of the month bills for November. There were no other questions regarding the bills to be paid.

**MOTION WAS MADE BY CLIFF MILLER, SECONDED BY COMMISSIONER HERR TO APPROVE THE OCTOBER 19<sup>TH</sup> AND NOVEMBER 1<sup>ST</sup> BILLS AS PRESENTED. THE LIST OF BILLS APPROVED TO BE PAID IS ATTACHED AND MADE A PART OF THESE MINUTES.**

**MOTION CARRIED UNANIMOUSLY.**

The Administrator presented the Aged Receivables List to the Board for review with three tenants in the 0–30-day category. He explained that Real Estate Support System's check was lost in the mail and a replacement check was being issued. G&C Welding has promised payment next week along with F4W Strike Team, Inc. The Administrator explained that the flooding after Hurricane Ian presented some challenges. Staff worked hard on having the mail held at the downtown Sanford post office along with picking up checks and delivering leases to tenants.

#### **ATTORNEY'S REPORT**

Seminole County Utility Agreement for 1500 Dolgner Place redevelopment – Mr. Coover reported that he looked at it but that the Administrator had new developments to report. The Administrator explained that he would like to table the Utility Agreement because the project engineer with CPH is working with the County on credits for existing service as opposed to a new service. He explained it is a standard agreement, and the new plan may include additional fixtures as the site goes from one building to three buildings. However, the engineers are working on the calculations to ensure the Port does not pay more than necessary.

Conflict of Interest Determination - FL SAFE Board of Directors – Mr. Coover updated the board that Bill Spivey sent him information from the attorney representing FL SAFE with an analysis of the issue related to conflict of interest. The typical issue is a board member having a contractual relationship with a business entity or agency that could create a conflict. In this case, according to the attorney for FL SAFE, there is no contractual relationship. Mr. Spivey would be serving as a Trustee with no contractual relationship. Also, they do not believe they are a business entity and finally he would be serving on that board as a Trustee to represent SCOPA's interest so there is no inherent conflict. Mr. Coover stated that he does not disagree with the way their attorney has analyzed it and with further understanding of the relationship it is also his opinion there is no conflict. He summarized that if Mr. Spivey is asked to serve as a Trustee on FL SAFE that would not violate the law. Commissioner Herr asked Mr. Coover if he would draft that opinion in writing and he agreed to do so.

**OLD BUSINESS**

Landlord Waiver request from Marinas, LLC – The Chair invited Mr. Pozo with Marinas, LLC, to explain the request for a landlord waiver from SCOPA. He explained that their loan matures next year, and the landlord waiver is the last thing needed to close on a loan in the amount of \$2.2 million. He explained that the business is appraised at \$8 million, and they have invested \$35,000 in environmental studies. Mr. Pozo stated that if they did not close tomorrow, they would have to wait another six months. He apologized that it was rushed explaining that it was on the bank's end, not his. Mr. Coover stated that the Landlord's Consent to Encumber, Estoppel Certificate and Nondisturbance Agreement is in line with what previous SCOPA boards already agreed to with the lender. He stated for the record that the Estoppel portion of the document says that there are no defaults under the lease. He explained that he only points that out because the board has expressed concerns about the condition of the docks. Mr. Pozo stated that a large portion of the wooden docks had recently been replaced with aluminum docks like you see at public boat ramps. Jessica Davis with Marinas, LLC, explained that they have a 5-year capital improvement plan. They just invested \$30,000 and the next phase would occur next year. The Administrator commented that he was comfortable with the current condition of the docks and that he did not know of any issues of default from a lease standpoint. Mr. Coover suggested that the board request a copy of Marinas' written capital improvement plan. Discussion ensued.

**MOTION WAS MADE BY HARRY ELLIS, SECONDED BY BILL SPIVEY TO APPROVE THE LANDLORD'S CONSENT TO ENCUMBER, ESTOPPEL CERTIFICATE AND NONDISTURBANCE AGREEMENT WITH SYNOVUS BANK.**

**MOTION CARRIED WITH COMMISSIONER HERR OPPOSED.**

**MOTION WAS MADE BY HARRY ELLIS, SECONDED BY COMMISSIONER HERR TO REQUIRE A 5-YEAR CAPITAL IMPROVEMENT PLAN AND STATEMENT OF PROPERTY FROM MARINAS, LLC, BY THE DECEMBER 2022 BOARD MEETING.**

**MOTION CARRIED UNANIMOUSLY.**

Landlord Waiver request from Disaster Restoration Services, LLC – The Administrator requested the board create a policy for landlord waivers for smaller tenants in multi-unit building that requires an increase in security deposits. He explained that it usually takes sixty to ninety days to process defaults and the increased security deposit would protect the Port against potential lost revenues during that time. Staff confirmed that the standard security deposit is equal to one month's rent including fees and sales tax. Matthew Criswell suggested it be on a case-by-case basis because three month's rent for a larger tenant like Marinas could be six figures and consider the strength of the personal guarantee. Harry Ellis suggested allowing tenants the option of getting a bond in lieu of the increased security deposit and Dana McBroom agreed. Mr. Coover noted that if a tenant is asking for a landlord waiver it means they have a loan in the works, therefore, asking for cash in form

of an increased security deposit was a smart way to handle landlord waiver requests. Dana McBroom stated that the policy could state that landlord waivers were handled on a case-by-case basis with a minimum-security deposit equal to three month's rent. Discussion occurred. It was the consensus to decide on the landlord waiver at hand and to review the Administrator's proposed amendment to the leasing policy next month.

**MOTION WAS MADE BY DANA MCBROOM, SECONDED BY COMMISSIONER HERR, TO APPROVE DISASTER RESTORATION SERVICES, LLC, LANDLORD WAIVER REQUEST UPON RECEIPT OF AN ADDITIONAL SECURITY DEPOSIT EQUAL TO TWO MONTH'S RENT.**

**MOTION CARRIED UNANIMOUSLY.**

FDOT Purchase Offer for the Ultimate I-4 Project – The Administrator updated the board explaining that he submitted the counteroffer discussed at the September board meeting which was at a value of \$13.57 per square foot. The FDOT has countered back at \$13.00 on the land, including the \$7,900 for the fence, \$5,000 cost to cure, and \$2,500 for attorney's fees for a total offer of \$83,078. He explained the official resolution and agreement would be brought to at a future meeting for board execution.

**MOTION WAS MADE BY COMMISSIONER HERR, SECONDED BY DANA MCBROOM, TO ACCEPT THE FDOT COUNTEROFFER FOR THE PROPERTY DESCRIBED AS PORT OF SANFORD PARCEL 115 AT \$13.00 PER SQUARE FOOT FOR A TOTAL OFFER OFF \$83,078.**

**MOTION CARRIED UNANIMOUSLY.**

## **NEW BUSINESS**

Leases – The Administrator asked to discuss the lease assignment listed as item #1 separately.

1. Lease Assignment - From Water Specialist Technologies, LLC, to Environmental Energy Services, Inc.; 1515 Kastner Place; existing 5-year Lease; lease term Oct. 1, 2019 – Sept. 30, 2024; with 5% rate increase mid-term (April 2022) to \$4,690.70/month (6,600 sq.ft. offices w/ 1,720 sq.ft. warehouse @ a rate of \$6.77/sq.ft./yr.) Personal guarantee.

The Administrator explained that the principal of Water Specialist Technologies, LLC, is selling the company. He reminded the board that last month staff proposed termination of the lease in conjunction with a new lease with the same terms under the new ownership. The board did not approve the new lease because it did not follow the revised leasing policy of 2 ½% annual increases. The Administrator explained that the buyer and seller are now requesting approval of a lease assignment which is their right under the existing lease. He informed the board that the buyers have provided a new guarantor, they have provided audited financial statements, the documents have been reviewed and are in order, as well as the seller has discussed the situation with SCOPA Attorney Steve Coover. The

Administrator recommended approval of the assignment of lease from Water Specialists Technologies, LLC, to Environmental Energy Services, Inc. Dana McBroom asked for clarification on why the board cannot do a new lease with the annual 2 1/2% increases per the leasing policy. Commissioner Herr explained no because contractually the tenant is exercising the assignment option within their lease. The Administrator explained the only other option would be to negotiate with both parties hiring appraisers to determine fair market value. SCOPA Attorney Steve Coover explained that SCOPA has a contract with the tenant, they have a five-year lease which says they cannot assign the lease without the board's consent, which consent may not be unreasonably withheld. He explained that means that the replacement tenant must be equal or superior to the existing tenant in stability and financial capabilities. He continued stating that the current tenant informed him, and the Administrator confirmed that the new tenant is three times stronger. Therefore, it was his opinion that denying the request for assignment of lease would not pass muster. Harry Ellis asked if the going forward the lease could be revised to require the board's approval of all assignments. Mr. Coover responded that he would have to research but consistently the law would require the landlord to demonstrate why the tenant is unable to assign their existing contract to their buyer. He noted that the tenant has also invested a lot of money into the property.

**MOTION WAS MADE BY HARRY ELLIS, SECONDED BY BILL SPIVEY, TO APPROVE THE ASSIGNMENT OF WATER SPECIALIST TECHNOLOGIES, LLC'S, EXISTING FIVE-YEAR LEASE TO ENVIRONMENTAL ENERGY SERVICES, INC.**

**MOTION CARRIED UNANIMOUSLY.**

The Administrator presented the remaining leases 2-6:

2. Lease Renewal – Brand O’Guitar Company; 1920 Dolgner Place; 1-year Lease Addendum; term Nov. 1, 2022 – Oct. 31, 2023; at the budgeted rate of \$1,823.62.00/month (3,000 sq. ft. offices @ a rate of \$8.02/sq.ft./yr.) Personal guarantee.
3. Lease Renewal – Brand O’Guitar Company; 1924 Dolgner Place; 1-year Lease Addendum; term Nov. 1, 2022 – Oct. 31, 2023; at the budgeted rate of \$850.00/month (1,500 sq. ft. warehouse @ a rate of \$7.22/sq.ft./yr.) Personal guarantee.
4. Lease Renewal – Dragon Recovery, LLC; 1904 Dolgner Place; 1-year Lease Addendum; term Nov. 1, 2022 – Oct. 31, 2023; with the budgeted 5% rate increase to \$926.10/month (1,500 sq. ft. warehouse @ a rate of \$7.83/sq.ft./yr.) Personal guarantee.
5. Lease Renewal – Kurt Shirley; 1470 Kastner Place, Suite 120; 1-year Lease Addendum; term Nov. 1, 2022 – Oct. 31, 2023; with existing 60-day termination clause; at the budgeted rate of \$925.00/month (1,500 sq.ft. warehouse @ a rate of \$7.86/sq.ft./yr.)
6. Lease Renewal – Sanford Boat Storage, Inc.; 1490 Kastner Place, Suite 1000; 1-year Lease Addendum; term Nov. 1, 2022 – Oct. 31, 2023; at the budgeted rate of

\$9,492.52/month (32,650 sq.ft. warehouse @ a rate of \$3.73/sq.ft./yr.) Personal guarantee.

**MOTION WAS MADE BY DANA MCBROOM, SECONDED BY HARRY ELLIS TO APPROVE THE LIST OF LEASES AS PRESENTED.**

**MOTION CARRIED UNANIMOUSLY.**

#### **ADMINISTRATOR'S REPORT**

The Administrator referenced the aerial photographs taken October 8, 2022, of the Port flooding resulting from Hurricane Ian. He reported that despite the flooding, the Port was able to stay open. He explained that while accessibility was tricky at times the tenants did not suffer any business interruptions. He explained that he has contacted the Florida Economic Development Council and the Office of Economic Development for the State to pursue grant applications for repair money for paving. He reported that there may be a couple of options available and potentially an 80/20 match if the federal disaster applications are approved. The Administrator requested board approval in contracting CPH to get the required engineer's probable cost estimate. A brief discussion was held.

**MOTION WAS MADE BY COMMISSIONER HERR, SECONDED BY HARRY ELLIS, TO AUTHORIZE THE ADMINISTRATOR TO CONTRACT THE CPH, FOR AN AMOUNT NOT TO EXCEED \$2,500.00, TO CONDUCT AN ENGINEER'S PROBABLE COST ESTIMATE.**

**MOTION CARRIED UNANIMOUSLY.**

The Administrator then requested authorization to proceed with emergency repairs. He explained that there are potholes, road damage, and missing street signage because of Hurricane Ian and the sustained flooding. Matthew Criswell inquired if the work could be postponed and incorporated with the upcoming Dolgner Place Paving Reclamation project. Cliff Miller expressed liability concerns over the road damage and missing street signs stating he would prefer not to delay the repairs. The Administrator reminded the board that all expenditures would be included on the bills list and ratified at the following meeting.

**MOTION WAS MADE BY HARRY ELLIS, SECONDED BY COMMISSIONER HERR, TO AUTHORIZE THE ADMINISTRATOR TO PROCEED WITH EMERGENCY REPAIRS IN AN AMOUNT NOT TO EXCEED \$30,000.**

**MOTION CARRIED UNANIMOUSLY.**

The Administrator explained that 1500 Dolgner Place Redevelopment site was currently under water and, therefore, the bid would be delayed a month or two.

The Administrator reported that at the board's request last month staff received update stats on the Seminole State College Business Incubator. The SSC Business Incubator is 75% occupied and renting their offices for \$250-500/month.

The Administrator noted that through the whole Covid19 Pandemic along the historic flooding after Hurricane Ian the Port was able to stay open for business and maintain 99% occupancy and record low aged receivables. He thanked Jennifer Sykes for her dedication showing up with boots on working through adverse conditions in the last few years. SCOPA Attorney Steve Coover commented that she has been of great assistance to him as well.

Harry Ellis departed.

### **New Business**

The Chairman asked Bill Spivey if the investment policy needed to be adopted prior to the resolutions for the Local Government Investment Pool (LGIP) investments. Mr. Spivey explained that it was not required, that he drafted a conservative investment policy as requested at the last board meeting. Due to time constraints, the Chair suggested postponing the policy discussion to the next meeting and asked for a motion on the resolutions. Discussion ensued about investing \$1 million or \$1.5 million in the two LGIPs selected. The Administrator reminded the members that the investment value discussion was what led to the decision to adopt an investment policy at the last meeting. Matthew Criswell commented that anything was better than nothing and recommended proceeding with the more conservative \$1 million to start getting a better return on the Port's funds. Bill Spivey reminded the board that there is a 24 hour turn around on withdrawals. Commissioner Herr recommended a motion to adopt the resolutions first then the motion to invest.

**MOTION WAS MADE BY DANA MCBROOM, SECONDED BY MICHAEL CARAWAY, TO ADOPT THE RESOLUTION FOR FLORIDA SURPLUS ASSET FUND TRUST AND FLORIDA PRIME AS CIRCULATED.**

**THE MOTION CARRIED WITH AMY GUILFOYLE OPPOSED.**

The Chair then opened the floor for a motion on the dollar amount to invest in both approved funds. Amy Guilfoyle asked about the guarantee or insurance on the funds. Matthew Criswell explained that there was no guarantee and because it is not a bank it is not FDIC insured. Commissioner Herr pointed out that these are the same funds that Seminole County Government uses. Matthew Criswell explained that it only takes 24 hours to get the funds back out if a change in the market or a downward trend is observed.

**MOTION WAS MADE BY DANA MCBROOM, SECONDED BY CLIFF MILLER, TO INVEST \$1,000,000.00 INTO THE FLORIDA SURPLUS ASSET FUND TRUST AND \$1,000,000.00 INTO FLORIDA PRIME.**

SCOPA Attorney Steve Coover clarified that regarding ability to withdrawal the funds it would require board action and, therefore, a board meeting not simply twenty-four hours unless some objective standard for the Administrator to operate under is established. Commissioner Herr stated that the investment policy would delegate authority, however, the board has not yet adopted an investment policy. Therefore, an emergency meeting of the board of directors would be required to withdrawal the funds. Bill Spivey reminded the board that the discussion is limited to moving money from the investment pool into the bank account, not dispersing funds in the form of a check or payment. Matthew Criswell asked Commissioner Herr how Seminole County Government handles such transactions. She explained that they are taking to the board each month with an investment report and a vote is held on money movement. The Chair called the vote on the motion.

**THE MOTION CARRIED WITH AMY GUILFOYLE OPPOSED.**

Andrew Van Gaale departed.

The Chair asked for a motion to authorize Bill Spivey to participate and represent SCOPA as a Trustee on the FL SAFE Board.

**MOTION WAS MADE BY DANA MCBROOM, SECONDED BY MATTHEW CRISWELL, TO APPROVE BILL SPIVEY'S PARTICIPATION AS A TRUSTEE ON THE FL SAFE BOARD.**

**MOTION CARRIED UNANIMOUSLY.**

It was the consensus of the members to table the investment policy discussion to the next regularly scheduled board meeting.

There being no further business, the meeting was adjourned at 5:25 p.m. by Chairman Criswell.

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Matthew Criswell, Chairman

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Bill Spivey, Secretary