

MINUTES

BARRON WATER CONTROL DISTRICT EMERGENCY BOARD OF SUPERVISORS' MEETING

April 15, 2015

An emergency meeting of the Board of Supervisors for the Barron Water Control District was called to order at 4:00 P.M. on Wednesday, April 15, 2015, by Mark Colbert, Chairman, who verified that a quorum was present and that the meeting had been posted on the District Website.

Those present at the meeting were:

Mark Colbert - Board Member & Chairman
Ricke Kress - Board Member & Treasurer
Duane Hobby – Board Member & Vice Chairman
Judi Kennington-Korf - General Manager
Debora Simicich – District Secretary
Phillip Pelletier – Hendry County Property Appraiser
Danny Pellicer – with the HC Property Appraiser
Pat Langford – Hendry County Tax Collector
Darlene Hernandez – with the HC Tax Collector
Haan Mouthan – Property Owner
Dwayne House – Property Owner
Chris Asplundh – Property Owner
Raoul Bataller – Editor/Owner Newspaper

Those present via conference call were:

Beth Daniels – BWC District Attorney
Garret Wallace - ALICO, Inc.

George Leicht, Field Supervisor for the District was absent.

Mr. Colbert opened the meeting with prayer followed by the Pledge of Allegiance to the Flag.

Ms. Kennington-Korf recapped the problem for the Board and audience members. In June of 2014 the District adopted Resolution 2014-2 to set the 2014 tax assessment rates. Mr. Baird then informed the Hendry and Glades Property Appraisers and the Hendry and Glades Tax Collectors of the 2014 assessment rates via a hand delivered letter. In July the District adopted Resolution 2014-5 which amended the budget and adjusted the tax rates down to the previous year's rates. Mr. Baird then informed the Hendry and Glades Property Appraisers and the Hendry and Glades Tax Collectors of the amended 2014 assessment rates via a hand delivered letter. The amended rates were applied correctly in Glades County. The amended rates were not applied in Hendry County and property owners were overcharged. The District now has over collected Hendry County tax assessment revenues. There is no historical reference for a solution to this particular situation. The meeting today is to examine the possible solutions to the problem and choose the best one for implementation.

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Solution #1. Adjust the 2016 assessment rates to offset the overage. This option does not provide the actual dollar amount overpaid for the 2014 taxes and Hendry County would still show a different rate than Glades County for the 2014 assessments.

Solution #2. Follow the Florida Statute 197.182(6)(c) to the letter and refund for overpayments of more than \$10. \$60,083.41 is the estimated total overage. Automatic refunds for overpayment over \$10 would involve 207 parcels with 125 checks being cut.

Solution #3. Refund all of the money to all landowners. This process would take more than 3 months and involve checks valued in pennies to thousands of dollars. The Tax Collector must account for all uncashed checks. This option would create even more of a problem, especially for the Tax Collector's office.

Solution #4. Litigation. This is not an option that anyone wants to consider.

Everyone agreed that Solution #4 was not a desired outcome and that today's meeting should end with a plan to resolve the problem and move on.

Mr. Colbert remarked that "Public Comment" is on the agenda and that comments from the audience are always welcome and permitted at any time during the meeting and discussion of the issue.

Mr. Colbert remarked that the District is in compliance with all that is required to furnish assessment rates to the Property Appraisers and the Tax Collectors. He feels that there is some precedent for a solution to the problem of overpayment as the Florida Statutes address overpayments of taxes and assessments and that automatic refunds are not required for amounts less than \$10. He stated that the District has done nothing wrong, improper, or inappropriate.

Mr. Pelletier, Hendry County Property Appraiser, stated that his office received the final assessment rates on June 1, 2014, in accordance with the agreement that is in place between the District and the Property Appraiser's office. He stated that the District is responsible for proofing the prepared property roll and this was not done. He stated that the procedures will be changed and that such an oversight would not be the case this year. He believes that the Property Appraiser's office is not fully responsible for the error and that the District is responsible for looking at its own numbers and verifying that they are correct before being applied to the tax roll.

Ms. Daniels, attorney for the District, stated that the schedule calls for preliminary rates to be furnished by June 1st and the final rates with any changes and/or corrections to be furnished by October 1st. She also noted that both the Property Appraiser's office and the Tax Collector's office signed a receipt for a copy of the amended assessment rates on August 1, 2014.

Mr. Pelletier stated that August is TRIM time in his office. It is a very busy time of the year and it is not possible to make changes while going through the TRIM procedures. There are 139 rates that are applied for special districts. If the District is using the TRIM process for notification, he feels the District is subject to the TRIM timeline.

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Ms. Daniels stated that the District must establish a way to make an appeal and the TRIM process allows that to happen if necessary.

Mr. Pelletier stated that his office would not accept any assessment rates from the District after June 1st from here on out because anything later than June 1st is not the proper process. If the District uses the TRIM and Uniform Method process, the District must abide by the timeline for that process.

Ms. Daniels stated that an increase in rates is a different matter and that DOR has a process to deal with that but a reduction in rates doesn't cost the taxpayer any additional monies. It would make sense, going forward, that we have in our agreement some deadlines or a process for checking the rates. Glades didn't have any issue with this or problems and our agreement is the same with them.

Mr. Kress stated that as he sees it there are two issues at hand. One is the overpayment which must be dealt with immediately and the second is a plan that needs to be put in place to avoid this or similar situations in the future.

Mr. Colbert agreed and stated that this would not happen again and that measures will be put in place to prevent it from happening again.

Mr. Bataller stated that he believes this issue should be simplified for the public and that a list of who is owed a substantial amount of money should be made and they should be informed and then checks mailed with a simplified explanation for the refund.

Mr. Colbert clarified that the Tax Collector does not have to issue refunds under \$10 unless requested by the landowner. Mr. Langford verified that this is so.

Mr. Pelletier stated that his office will create a corrected roll and give it to the Tax Collector's office who will then issue the checks to anyone owed a refund over ten dollars.

Ms. Daniels asked if the Certificate of Correction would be included (She believes it is Form 409A), and that individual correction forms are not needed.

Mr. Pelletier stated that a Certificate of Correction would be issued.

Ms. Hernandez from the Tax Collector's office stated that as long as the Tax Collector's office has a justification for the refunds, individual corrections are not necessary.

Mr. Colbert noted, for the record, that "the two elected officials are shaking their heads 'yes' to these statements." Let the record show that two participants were attending via phone and could not see the elected officials non-verbal agreement.

Ms. Kennington-Korf stated that the Board should pass a motion authorizing the process in conjunction with the Property Appraiser's office and the Tax Collector's office.

Ms. Daniels stated that a cost perspective needs to be included, that there will not be any cost to the District for completion of the correction form and distribution of the refund

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checks. Mr. Pelletier and Mr. Langford both agreed that there would be no cost to the District for the corrections and the issuing of checks.

Mr. Wallace of ALICO, Inc asked for the timeframe anticipated for the checks over \$10 to be issued and the situation resolved.

Mr. Pelletier said that within 90 days the process would be complete, he wants it resolved by June 1st.

Ms. Hernandez stated that the unpaid accounts will be advertised as of May 1st. She stated that if the corrections are not made before advertising, the problem will just be further compounded with added fees and interest.

Mr. Kress asked her, if given the corrected roll, could she get the unpaids ready for publication by May 1st. She replied that she could.

Mr. Langford stated that his office has been in favor of Solution#2, the issuing of checks over \$10, all along and that his office is willing to do whatever is necessary to get this resolved on time. Mr. Colbert acknowledged that the people involved are all hardworking honorable people and that the Board appreciates everyone's participation in the process to resolve the issue in an equitable and timely manner.

Mr. Kress asked if there is a plan in place to notify the public of the overpayments, specifically those whose refund would be less than \$10.

Mr. Pelletier stated that he had no plan of sending a letter or notice to landowners.

Mr. Kress stated that he did not intend the Property Appraiser's office to send out individual letters, but he thinks there should be some way to make landowners aware of the situation so that it doesn't become a public political issue over nothing.

Mr. Langford stated that a notice could be posted in the Tax Collector's office.

Mr. Colbert stated that in the absence of sending out a letter to each and every person we should post and publicize the notice in as many forums as possible.

Ms. Daniels stated that notice should be posted on the District's website and the bulletin board out front of the building. A simple announcement stating that the overpayment occurred and that a property owner could contact the Tax Collector directly to inquire if they are due a refund. It is important that they understand it was simply a clerical error and that the District is doing the right thing to get it corrected.

Mr. Langford asked if the motion had included the information that a property owner has only 4 years in which to claim a refund. Ms. Kennington – Korf replied that it did, she quoted the statute verbatim.

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Upon motion duly made by Mr. Kress, seconded by Mr. Hobby and unanimously carried, it was

RESOLVED AND APPROVED, that the Barron Water Control District, in cooperation with the Hendry County Property Appraiser and the Hendry County Tax Collector will within 90 days, use Florida Statute 197.182(6)(c) as the remedy for the incorrect tax rate and that overpayments of more than \$10, if identified within the 4-year period of limitation, shall be automatically refunded to the taxpayer. It is further understood that a taxpayer due a refund of less than \$10 may request a refund through the Tax Collector, who will issue a check in the amount of the overpayment.

Ms. Kennington-Korf asked Mr. Pelletier if there was any way a statement could be made or something could be given during the TRIM process.

Mr. Pelletier stated that he did believe it could and that he would advise against it because he thought it would just create more confusion on the part of the taxpayers.

Ms. Daniels noted that the 2015 TRIM notices would be issued well past the 90 day period set by the District to resolve the issue.

Ms. Kennington-Korf stated that she is focused on getting the info out to the residents using the website and local media.

Mr. Colbert stated that the District is committed to getting everybody informed as much as possible.

Mr. Bataller asked how many people would be due a refund. Ms. Kennington-Korf replied that 10,986 parcels are involved in the overpayment with 207 eligible for an overpayment of \$10 with 125 checks being written. It has not been determined exactly how many people are eligible for a refund.

Mr. House stated that he had a question before adjournment. He did not understand ALICO's situation. (He was referring to the white board displayed in the board room) Mr. Colbert explained that when the irrigation structures were built, ALICO, Inc. paid their portion of the construction cost up front. Other landowners had a higher assessment rate for a period of time which included payment toward the irrigation structures. The cost of the irrigation structures has been paid in full and everyone is now paying the same rate. ALICO, Inc. now pays the same rate as everybody else.

Mr. Colbert asked if there were any further comments at this time. There were none.

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There being no further points of discussion and no further business to come before the Board, the meeting was adjourned at 4:48 P.M.



Mark Colbert, Chairman

ATTEST:



Debora Simicich, Corporate Secretary

