



PAL-MAR WATER CONTROL DISTRICT

**REGULAR BOARD MEETING
MARCH 10, 2022
9:30 A.M.**

**Special District Services, Inc.
The Oaks Center
2501A Burns Road
Palm Beach Gardens, FL 33410**

**www.palmarwcd.org
561.630.4922 Telephone
877.SDS.4922 Toll Free
561.630.4923 Facsimile**

AGENDA
PAL MAR WATER CONTROL DISTRICT
Old Jupiter Town Hall
1000 Town Hall Avenue
Jupiter, Florida 33458
REGULAR BOARD MEETING
March 10, 2022
9:30 a.m.

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish Quorum
- D. Additions or Deletions to Agenda
- E. Old Business
 - 1. Consider the Proposed Question for an Attorney General’s Opinion Regarding Pal-Mar WCD Granting of Easements.....Page 3
 - 2. Update Regarding Litigation
 - 3. Discussion Regarding Mowing Proposals.....Page 5
- F. Approval of Minutes
 - 1. February 3, 2022 Regular Board Meeting.....Page 7
- G. Status Report
 - 1. Legal – Status Report.....Page 12
 - 2. Engineer – Status Report
 - 3. District Manager Report
 - 4. Field Maintenance Report
- H. New Business
 - 1. Discussion Regarding Two New Potentially Illegal Culverts Installed
- I. Administrative Matters
 - 1. Financial Report.....Page 13
 - 2. Consider Invoices.....Page 14
- J. Landowner Items
- K. Comments from the Public for Items Not on the Agenda
- L. Board Member Comments
- M. Adjourn

Miscellaneous Notices



Published in The Palm Beach Post on March 3, 2022

Location

Palm Beach County, Florida

Notice Text

PAL MAR WATER CONTROL DISTRICT NOTICE OF CHANGE OF DATES OF REGULAR BOARD MEETINGS NOTICE IS HEREBY GIVEN that the Board of Supervisors of the Pal Mar Water Control District will hold Regular Meetings at 9:30 a.m. in the Old Jupiter Town Hall, 1000 Town Hall Avenue, Jupiter, Florida 33458, on March 10, 2022, April 14, 2022, and May 12, 2022. The purpose of the meetings is to conduct any and all business coming before the Board. Copies of the Agenda for any of the meetings may be obtained from the District's website or by contacting the District Manager at (561) 630-4922 and/or toll free 1-877-737-4922. From time to time one or more Supervisors may participate by telephone; therefore, a speaker telephone will be present at the meeting location so that Supervisors may be fully informed of the discussions taking place. Meetings may be continued as found necessary to a time and place specified on the record. If any person decides to appeal any decision made with respect to any matter considered at these meetings, such person will need a record of the proceedings and such person may need to insure that a verbatim record of the proceedings is made at his or her own expense and which record includes the testimony and evidence on which the appeal is based. In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations or an interpreter to participate at any of these meetings should contact the District Manager at (561) 630-4922 and/or toll-free 1-877-737-4922 at least seven (7) days prior to the date of the particular meeting. Meetings may be cancelled from time to time without advertised notice. PAL MAR WATER CONTROL DISTRICT www.palmarwcd.org 3-3/2022

Miscellaneous Notices



Published in St. Lucie News Tribune on March 3, 2022

Location

St. Lucie County, Florida

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MEMORANDUM OF LAW

ISSUE

This Memorandum of Law addresses substantially the following question:

Does Pal-Mar Water Control District (“Pal-Mar”) have the legal authority to grant easements for road, drainage and public utility purposes to landowners, their guests, invitees, successors and assigns, on and over property which Pal-Mar owns in fee title?

FACTS

Pal-Mar Water Control District is an independent special district of the State of Florida, created by Circuit Court Decree in 1968 and operating in accordance with its Enabling Legislation (Chapter 2005-307, Laws of Florida), copy attached, and applicable provisions of Chapters 189 and 298, Florida Statutes.

Pal-Mar consists of approximately 21,000 acres of undeveloped property located in Palm Beach and Martin Counties. Pursuant to its legal authority, Pal-Mar levies non-ad valorem assessments for operation and maintenance of its works on property within its boundaries which are subject thereto. Landowners receive benefits from Pal-Mar for these assessments such as canal maintenance, vegetation management and other routine maintenance.

Pal-Mar holds fee simple title to certain real property consisting of a strip of land running in a north-south direction measuring 150 feet in width and approximately 1.7 miles in length. Pal-Mar acquired this property by Warranty Deed in 1971. In 1968 and 1969, a former owner of substantially all lands within Pal-Mar created a plan or grid of easements that generally run in an east-west direction. These easements were granted to “the general public, each and every Grantee and their heirs, successors, personal representatives and assigns, the State of Florida, and any political subdivision thereof,” for “rights-of-way, road purposes, drainage incidental thereto and public utilities.”

Although landowners within Pal-Mar may have “paper access” to their properties, a road system has not been developed or improved in order to provide practical access to properties. Pal-Mar is considering the granting or creation of an easement in favor of landowners within Pal-Mar, and

their guests, invitees, successors and assigns, on and over the 150' strip in order to provide access and other easement rights consistent with the easements granted in 1968 and 1969.

LAW

Section 298.22, Florida Statutes, specifically grants drainage and water control districts the full power and authority to construct, complete, operate, maintain, repair and replace any and all works and improvements necessary to execute the water control plan. Subsection (3) of Section 298.22 provides the power to, among other things, “purchase, sell, lease, convey, or transfer real or personal property.” Attorney General Opinion 2006-44 concluded that Chapter 298 authorizes a water control district to sell or convey real property. This opinion further stated “[i]t appears clear that the Legislature has granted special districts the authority to sell or convey real property and has left it up to the districts, where not otherwise prescribed by their enabling legislation, to exercise their own discretion to determine what terms, conditions, and methods to employ in exercising the power to sell or dispose of surplus real property.” Therefore, the powers granted by Section 298.22(3), Florida Statutes, to convey or transfer real property interests would necessarily include the power of Pal-Mar to grant easements on and over lands to which it holds fee title.

CONCLUSION

Based on the above research, Pal-Mar Water Control District has the legal authority to sell, convey, or transfer real property and may exercise its own discretion to determine such terms, conditions, and methods. Therefore, it is the opinion of Pal-Mar Water Control District that it has the legal authority to grant easements to landowners, their guests, invitees, successors and assigns, over property which it owns in fee title, for purposes specified therein consistent with Florida law.

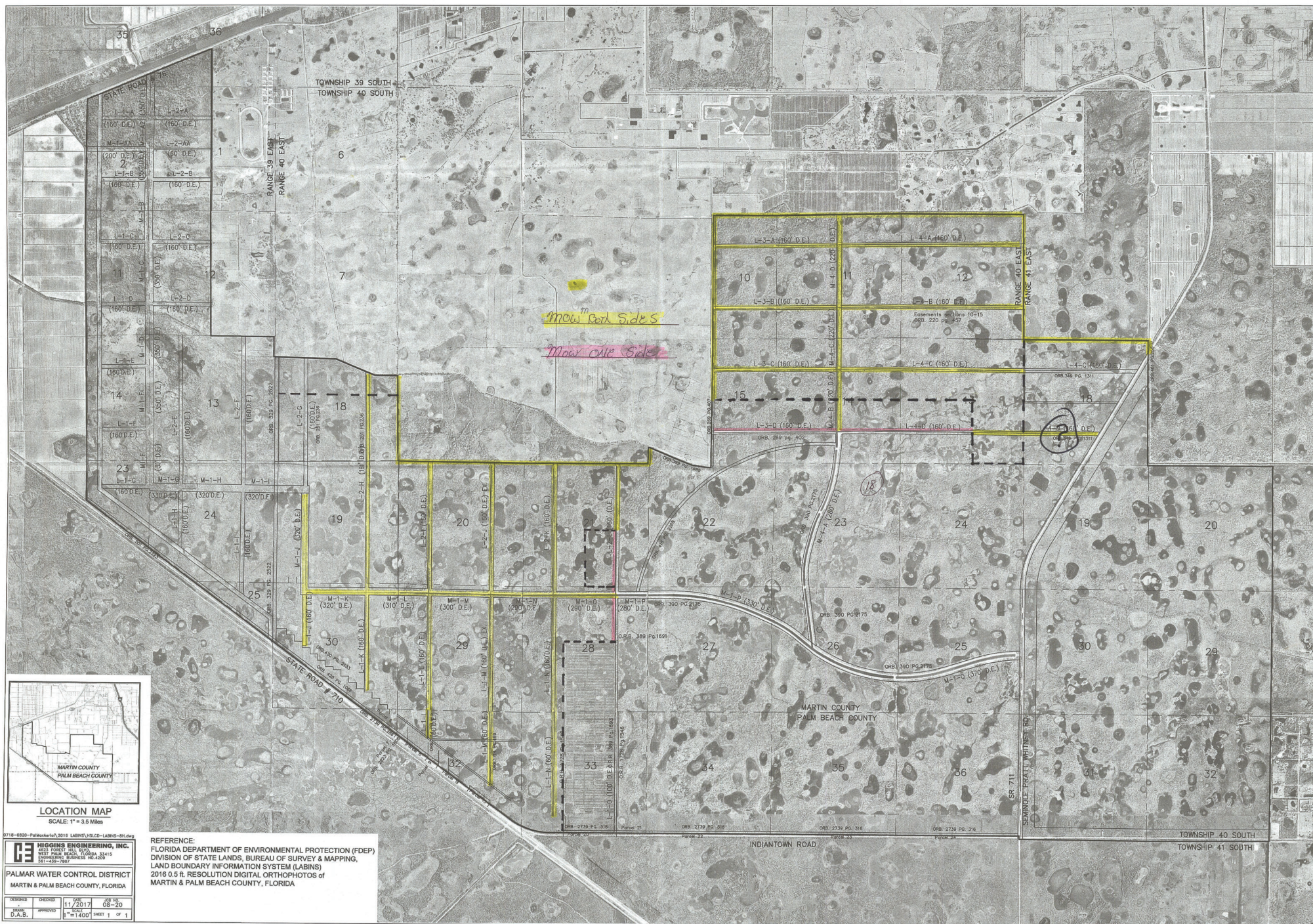
Date: 03/02/2022
Quote No.: 10055

Bill To:
Lewis & Michael
Pal Mar Water Control District
2501 Burns Road
Palm Beach Gardens FL
33410

Ship To:
Pal Mar Water Control District
2501 Burns Road
Palm Beach Gardens Fl
33410

Qty	Description	Unit Price	Total
1	Mow all canal banks, roads and trees encroaching onto roadways.	\$68,000.00	\$68,000.00

Thank you for your business.



PAL MAR WATER CONTROL DISTRICT
REGULAR BOARD MEETING
FEBRUARY 3, 2022

A. CALL TO ORDER

District Manager Michael McElligott called the February 3, 2022, Regular Board Meeting of the Pal Mar Water Control District to order at 9:32 a.m. in the Jupiter Civic Center, 351 Old A-1-A, Carlin Park, Jupiter, Florida 33477.

B. PROOF OF PUBLICATION

District Manager Michael McElligott offered Proof of Publication which showed that notice of the Regular Board Meeting had been published in *The Palm Beach Post* and in *The Stuart News* on 9/27/2021, as legally required.

C. ESTABLISH QUORUM

A quorum was established with the following attendees:

Commissioner Maria Marino	Present
Commissioner Harold Jenkins	Present
Zach Gazza	Present
Bob Berman	Present
Lewis Lolmaugh	Present

Also, in attendance were staff members:

District Manager Michael McElligott	Special District Services, Inc
General Counsel Mary Viator	Caldwell & Pacetti, P.A.
District Engineer Bob Higgins	Higgins Engineering
Bill Doney	Caldwell & Pacetti, P.A.

Also, in attendance were several landowners and members of the public.

D. ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

E. APPROVAL OF MINUTES

1. November 9, 2021, Regular Board Meeting

Mr. McElligott presented the minutes of the November 9, 2021, Regular Board Meeting for review. Commissioner Marino noted a few typos to be corrected. A **motion** made by Commissioner Marino, seconded by Commissioner Jenkins, to approve the minutes as amended. The **motion** carried 5-0.

PAL MAR WATER CONTROL DISTRICT
REGULAR BOARD MEETING
FEBRUARY 3, 2022

F. STATUS REPORTS

1. Legal – Status Report

District attorney Mary Viator stated that legal status report is included in the meeting book for review. She introduced Bill Doney from her office who is there to help with the easement agenda item later in the meeting. She also stated that the rest of her items have their own agenda item later in the meeting.

2. Engineer – Status Report

Mr. Higgins noted that most of his items have separate agenda items later in the meeting. Mr. Higgins did inform the Board that he has provided BMAP updates to DEP as they requested.

3. District Manager Report

Mr. McElligott stated that all his items are covered as separate agenda items. Mr. McElligott also reminded the Board that budgeted discussions will begin in a few months.

4. Field Maintenance Report

Mr. Gaza updated the Board. He went over that there had been mowing to the best of their ability that has happened in the last month and a half. He stated that the next items to do are to buzz some overgrowth and do some grading on some of the works.

Mr. Lolmaugh asked about the mowing from the top of the canal banks down to the water. Mr. Higgins said that according to DEP BMAP, trees can be removed, and other vegetation can be trimmed down to about 6 inches high, not completely removed. Mr. Gaza said he has not done the mowing down to the water yet because he and Mr. Higgins were waiting on the BMAP recommendation from DEP. Mr. Lolmaugh asked if we would eventually get the mowing program back to where it was before the Board had to stop due to nonpayment by SFWMD and Martin County. Mr. Gaza said he is doing the best he can with the limited funds he is working with. There was a discussion among the Board regarding the possibility of going back to the old mowing program. The Board decided to solicit some quotes to get an idea of the current cost to perform the mowing. Once those figures are known, the Board can make a decision at a future meeting regarding bringing back the mowing program. Mr. Lolmaugh volunteered to work on getting quotes for the Board.

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G. OLD BUSINESS

1. Update Regarding Martin County Litigation

Mrs. Viator explained to the Board that the court ruled in Hobe St. Lucie CD's favor in the appeal, reversing the original ruling by the original court. SFWMD and Martin County filed a motion to the appeals court to reconsider, and that motion was denied. At this point SFWMD and Martin County have petitioned the Florida Supreme Court to take the case. We are currently waiting on the Florida Supreme Court to decide if they will accept the case or not.

2. Consider Granting of Drainage Utility, and Ingress/Egress Easement to Landowners on the Map Over the District's Three Parcels Extending from Beeline Highway to the Jupiter Grade

This item was brought up at a prior meeting, and the Board asked Mrs. Viator to look into the issue, including doing a title search on the property in question. Mrs. Viator provided a memo in the meeting book regarding her research into the matter. Mr. Doney went over the title search results, which indicate the property is owned by Pal-Mar WCD in fee simple. Mr. Gaza asked if there were any encumbrances on the title that would prevent Pal-Mar WCD from granting the requested easements. Mr. Doney said no, there are no such encumbrances. At this point a lengthy discussion occurred which included input from both the Martin County Attorney and the Palm Beach County Attorney. There were questions raised as to the need for the easements with regards to a future Board having the ability to sell the property in question, and the ability of Pal-Mar WCD to grant the easements in question. After more discussion, Commissioner Marino suggested we get an Attorney General's opinion regarding Pal-Mar WCDs abilities to do the things being discussed. Mrs. Viator explained the process and noted that the question needs to be very precise. There was then a lot of discussion on the questions needing to be asked. Mr. Viator said she and Mr. Doney can work on the question to the Attorney General and bring it back to the Board for their final approval before sending it off. The Board also asked that Mrs. Vitor coordinate with the Marin and Palm Beach County attorneys so that they may provide input on the question to ensure that the counties questions into Pal-Mar WCD's abilities are addressed.

A **motion** was then made by Mr. Gaza, with a second from Commissioner Jenkins, to direct Mr. Viator to develop the question for the Attorney General using language from the existing east-west easements and with input from both Martin and Palm Beach County Attorneys and then to bring that question back to the Board for final review and approval before sending it off to the Attorney General. The **motion** passed **5-0**.

PAL MAR WATER CONTROL DISTRICT
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FEBRUARY 3, 2022

H. NEW BUSINESS

There was no new business.

I. ADMINISTRATIVE MATTERS

1. Financial Report

Mr. McElligott pointed out the financial report in the Board and answered any question of the Board.

2. Consider Invoices

The invoices were approved, as presented, on a **motion** made by Mr. Gazza, seconded by Mr. Lolmaugh, and the **motion** carried **5-0**.

J. LANDOWNER ITEMS

Mr. Scott Pettigrew asked about the potential of bringing back the mowing program and what that will do to assessments. Mr. McElligott and Commissioner Marino explained that no decision had been made today regarding the assessments today. At this point the Board is looking to get information on the cost to bring back the mowing program and then when the budget discussions happen at later meetings, that will determine if there will be any kind of assessment increase. There was then some discussion regarding why there hadn't been mowing which was due to the lost revenues from SFWMD and Martin County and the legal fees associated with the lawsuit. There was also some discussion regarding the responsibility of the District as it pertains to maintenance.

Mr. Kevin Cutting commented on his concerns as to what Pal-Mar WCD really is. He is concerned about current destruction of public and private lands, of dangerous shootings, human waste contamination from camping activities. Mr. Cuttings wants clarity that the District is or is not a development. Mr. Cuttings wants to make sure the property is protected. Mr. Berman reminded everyone that the Pal-Mar WCD has very limited powers and most of the issues Mr. Cutting brought up are things Pal-Mar WCD has no control over, that these concerns really need to be brought to the authorities in martin County.

Mr. Dan Castillo explained that he is part of a group trying to form a POA or possibly a Church made up of landowners in Pal-Mar WVD to be able to set up rules or bylaws so the land can be used and protected at the same time. He stated that he and others are concerned about Board members not caring about Pal-Mar and the landowners in it. Commissioner Marino reminded everyone that she represents Palm Beach County, and

PAL MAR WATER CONTROL DISTRICT
REGULAR BOARD MEETING
FEBRUARY 3, 2022

that Palm Beach County is a landowner, and as a landowner, she and Palm beach County care a lot about keeping this land in Pal-Mar preserved now and for the future.

Again, the room was reminded that Pal-Mar WCD has no police powers, no building powers, all these things would need to be brought up to Martin County.

K. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

Matt with Jupiter Farms Residents stated his knowledge of statues and reiterated that most of the items being brought up are outside the powers of a 298 water control district. A lot of landowner issues are not issues Pal-Mar WCD Board has control over.

L. BOARD MEMBER COMMENTS

Mr. Lolmaugh informed the Board that there are 2 culverts that have been illegally installed and he feels the Board needs to inform the landowners that these need to be removed. Mr. Higgins said he will need to go check these out and report back to the Board so that they can take action.

Commissioner Jenkins asked if we are aware of the potential legislation change as it relates to insurance limits. Mr. McElligott stated that yes, the management company is aware and are monitoring the legislation along with the insurance company. Most likely any direct results to the district would be felt in the budget regarding the insurance policy cost. Mr. McElligott will let the Board know if anything changes.

Mr. Gaza thanked all the landowners that came and encouraged more landowners to come to these meetings.

M. ADJOURNMENT

There being no further business to come before the Board, at 10:39 am a **motion** to adjourn the meeting was made by Commissioner Marino, with a second by Commissioner Jenkins. The **motion** carried unanimously

Secretary/Assistant Secretary

Chair/Vice-Chair

**CALDWELL PACETTI
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MEMORANDUM

TO: Board of Supervisors of the Pal-Mar Water Control District

FROM: Caldwell Pacetti Edwards Schoech & Viator

DATE: March 3, 2022

RE: Legal Status Report for the March 10, 2022 Board of Supervisors' Meeting

The following is a summary of the work in progress and status thereof for the Pal-Mar Water Control District:

- (1) Coordinated with the District re: Administrative Issues
- (2) Followed Up Regarding Appeal Relating to Non-Payment of District Assessments by Martin County and SFWMD
- (3) Coordinate/draft Request for Attorney General Opinion per Board direction including review of title documents, preparation of request for Attorney General Opinion and follow-up

Pal Mar Water Control District
Budget vs. Actual
October 2021 through February 2022

	Oct '21 - Feb 22	21/22 Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense				
Income				
363.100 · O & M Assessments	53,566.33	478,278.00	-424,711.67	11.2%
363.830 · Assessment Fees	-1,803.14	-2,492.00	688.86	72.36%
363.831 · Assessment Discounts	-2,048.48	-4,984.00	2,935.52	41.1%
369.400 · Other Income	0.00	12,000.00	-12,000.00	0.0%
369.401 · Interest Income	80.95	360.00	-279.05	22.49%
512.999 · Uncollectable Assessments	0.00	-353,687.00	353,687.00	0.0%
Total Income	49,795.66	129,475.00	-79,679.34	38.46%
Gross Profit	49,795.66	129,475.00	-79,679.34	38.46%
Expense				
511.310 · Engineering	6,442.30	28,000.00	-21,557.70	23.01%
511.311 · Management Fees	10,000.00	24,000.00	-14,000.00	41.67%
511.315 · Legal Fees	8,125.98	30,000.00	-21,874.02	27.09%
511.318 · Assessment/Tax Roll	0.00	5,000.00	-5,000.00	0.0%
511.320 · Audit Fees	0.00	3,900.00	-3,900.00	0.0%
511.450 · Insurance	5,706.00	8,300.00	-2,594.00	68.75%
511.480 · Legal Advertisements	353.28	2,100.00	-1,746.72	16.82%
511.512 · Miscellaneous	592.54	5,000.00	-4,407.46	11.85%
511.513 · Postage and Delivery	26.85	2,000.00	-1,973.15	1.34%
511.514 · Office Supplies	110.55	2,000.00	-1,889.45	5.53%
511.515 · Website Management Fee	625.00	1,500.00	-875.00	41.67%
511.540 · Dues, License & Subscriptions	175.00	175.00	0.00	100.0%
511.999 · Contingency	0.00	5,500.00	-5,500.00	0.0%
512.305 · Maintenance Contract	5,000.00	12,000.00	-7,000.00	41.67%
Total Expense	37,157.50	129,475.00	-92,317.50	28.7%
Net Ordinary Income	12,638.16	0.00	12,638.16	100.0%
Net Income	12,638.16	0.00	12,638.16	100.0%

Bank Balance As Of 2/28/22	\$ 200,744.96
Investment Acct Balance As Of 2/28/22	\$ 41,617.55
Accounts Payable As Of 2/28/22	\$ 7,275.73
Accounts Receivable As Of 2/28/22	\$ -
Total Fund Balance As Of 2/28/22	\$ 235,086.78

Pal Mar Water Control District
Custom Transaction Detail Report
January 14 through February 21, 2022

	Type	Date	Num	Name	Memo	Debit	Credit
Caldwell Pacetti Edwards Schoech & Viator							
Legal Fees	Bill Pmt -Check	02/01/2022	1800	Caldwell Pacetti Edwards Schoech & Viator	Invoice # 129625 Legal Services - Dec 2021	2,627.50	
Total Caldwell Pacetti Edwards Schoech & Viator						2,627.50	0.00
Special District Services, Inc.							
Management Fees	Bill	01/31/2022	022-0103	Special District Services, Inc.	Management Fees		2,249.44
	Bill Pmt -Check	02/01/2022	1803	Special District Services, Inc.	Management Fees	2,249.44	
Total Special District Services, Inc.						2,249.44	2,249.44
Miscellaneous							
Higgins Engineering, Inc.							
	Bill	01/15/2022	2042	Higgins Engineering, Inc.	Inv #2042 Engineer Services 11.16.21- 01.15.22		1,479.90
Total Higgins Engineering, Inc.						0.00	1,479.90
Lumberjack Land Management LLC							
	Bill	01/27/2022	1020	Lumberjack Land Management LLC	Inv#1020 Lawn Maint Jan 2022		1,000.00
	Bill Pmt -Check	02/01/2022	1801	Lumberjack Land Management LLC	Inv#1020 Lawn Maint Jan 2022	1,000.00	
Total Lumberjack Land Management LLC						1,000.00	1,000.00
Martin County Property Appraiser							
	Bill	01/17/2022	2021 Tax Roll	Martin County Property Appraiser	Assessment Levy Tax Roll 2021		1,077.95
	Bill Pmt -Check	02/01/2022	1802	Martin County Property Appraiser	Assessment Levy Tax Roll 2021	1,077.95	
Total Martin County Property Appraiser						1,077.95	1,077.95
TOTAL						6,954.89	5,807.29