

Lake Asbury Municipal Service Benefit District

Report from the Chairman, March 28, 2011

Major Issues facing new board to be seated July 11, 2011

How to fund the South Lake Asbury Spillway:

- a) **Do nothing;** at least one new Board member feels we don't need a spillway.
- b) **Obtain a USDA Loan:** There are people who believe this is all that I am pushing. This is not true. The Board should be run like a business. A good business approach would investigate all factors in order to make a good decision. The residents demand we turn over every stone in the decision making process that will affect this Special District for a long time. The residents also demand that they be in the process **but residents also must attend meetings.** We have been averaging seven per meeting. We should average 75 plus and these people should demand to sit on committees to aid the Board. The preliminary package will be ready for the new Board approval on July 11th. There will be little or no cost to determine the cost and conditions prior to any commitment. USDA takes this issue seriously and demands that an advertised Town Hall meeting takes place within 60 days of the submission. I would demand a referendum if the Board decides the loan is the best approach after the review of the preliminary USDA Loan info; the residents need to decide their future – not the Board. The residents need to be involved if a 20, 30 or 40 year loan is appropriate.
- c) **Grants:** I have done a lot of work grants versus commercial paper, bonds, etc and these are all very expensive. There are a number of side issues in relation to grants. Grants generally require 25 % participation. Contacted at least six banks (Regions, Ameris, SunTrust, BBV Compass, etc) to get ideas on how to cover the 25% participation. In the process all banks ask about the Wachovia Note issued in 2006 for dredging (note the original \$100 assessment is 100% pledged to cover this note). Bob Rumble and I reviewed the note and had a lot of questions. Tom Hallquest, LAMSBD CPA and Wayne Flowers, District Attorney both reviewed and stated the note was poorly written. All banks felt there was a subordination issue.

Our District Attorney convinced Wachovia to amend the note. The amendment will be ready for the new Board's review. The amendment needs to be approved because the Board could even need a short term loan in the future to cover an emergency.

With the help of Bob Rumble and Ken Pelfrey, we joined the Clay LMS (Local Mitigation Strategy) Committee. We received approval for three projects Spillway for South lake Asbury (\$900,000), Spillway for Lake Ryan (\$925,000) and All Three Dams (\$5,800,000). Any time you apply for FEMA Grants there are two questions asked (is your project approved by the Local LMS and is the Local County Plan approved by US Homeland Security? We can answer yes).

In addition, October 2009, US Homeland Security completed a Field Assessment Report of the three dams. CITAMS Critical Information Threat Assessment & Mitigation

System), with some thirty (30) vulnerability factors and we were graded Very High or High in ten areas. We are hoping that when funds become available, a Homeland Security Grant could aid us in security issues (automatic kettles, water level alarms, etc). Note the CITAMS is not subject to the Public Records Request Law.

The dams are also now on the Clay Critical Facility List and the dams have addresses.

The LMS, CITAMS, and Critical Facility List can be considered the first leg of the process of obtaining a grant (pre or post mitigation). We have completed the preliminary work and don't have to spend months securing before a grant application can be submitted. Now grants are problematic. Grants can suddenly become available and are competitive. Plus, you need 25% participation available at the time of application (cash money or a bank line of credit, etc, no federal grant can be used for the 25% participation). This action requires a team of lake residents, plus the District Engineer. No one person should be saddled with the job to complete the applications.

This discussion leads to the ownership issue on the Black Creek side of Lake Asbury (six owners) and two owners on the lake side. How will FEMA or a bank handle this? Both the LALLOA & LAMSBD Boards will have to address this problem.

LAMSBD could have better protection in a major claim and the residents get hammered on the backside with as assessment through LALLOA. LAMSBD carries liability insurance because not all claims are covered under sovereign immunity. Again both Boards need to address. There is a need for a combined Board to discuss policy & problems.

d) Saving the money over a period of time:

If I recall, the main reason LAMSBD was created in 1986 was to build the South Lake Asbury Spillway. The original budget had a line item of \$78,000 and a line of credit of \$120,000. One of the original drafts had LAMSBD terminating in seven years, but this requirement was eliminated in the final bill. Someone must have known something.

Money was to be saved over several years to complete the spillway. Was the South Lake Asbury built, I don't see a spillway? What happened to saving the money over a period of time? Used to pay for maintenance, installing a mat on Lake Asbury dam, hydrilla, etc?

A number of new Board members want to save the money for the spillway over a period of time. The current estimate for a spillway is \$900,000 plus throw in an automatic valve for \$50,000 for the South Lake Asbury dam. Beef up the price with inflation and you all can take turns at guessing the amount of time needed to save money. A time period of 12 to 15 years? Now you are looking at 60 plus year old dams with huge maintenance problems. You are probably looking at an easy \$1,500,000. Sorry, we didn't save money 25 years ago and we are not going to save it now

I have had several phone & e-mail conversations with Wm. Hibbard, President of a new FL Special District, Harbor Waterway Association. They were a Homeowners Association that needed to find new avenues for money. HOA's cannot secure grants or loans from

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FEMA, USDA etc. He advised that they read our Board minutes on our website and were interested in the fact we might consider an USDA Loan. He advised their annual per lot assessment is \$1,200. They have to dredge every six years. They currently have saved \$700,000 in the bank, but he stated the \$700,000 does not cover their real needs because costs are going through the roof.

A majority of Lake Asbury residents want the spillway constructed, but we need to review all options and make a good decision. Remember, Trustees take an oath of office and have a fiduciary responsibility to do the best job possible for the lake residents. There may be other ways of finding funds but every rock needs to be overturned.

Carl E Kocher
Chairman