

Loxahatchee River District

Water Reclamation | Environmental Education | River Restoration


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D. Albrey Arrington, Ph.D., Executive Director



MEMORANDUM

TO: GOVERNING BOARD
FROM: D. ALBREY ARRINGTON, Ph.D. 
DATE: OCTOBER 7, 2015
SUBJECT: PROPOSED REVISION OF CHAPTER 31-11 SPECIAL ASSESSMENTS

As part of the process of reviewing and updating our Chapter 31 Rules staff and legal counsel have reviewed and drafted proposed revisions to Chapter 31-11, Special Assessments. The proposed revisions to Chapter 31-11 are attached in redline format, and primarily focus on clarifying the Rule and the District's existing procedures. In particular, the new section 31-11.007 Payment of Assessments is an expansion of text that was originally in 31-11.003. Our objective with the proposed revisions is to provide improved clarity.

Based on feedback from the Governing Board, we made one additional revision to the version you reviewed last month. Thus, the only change from the version you reviewed last month occurs near the top of page 2 and is highlighted in **yellow**.

At 6:50 pm on October 15, 2015 we will hold a public hearing to receive public comment on the proposed revisions to Chapter 31-11. Pending input from the public, staff will present the revised Chapter 31-11 to you for final approval at your regular Governing Board meeting, which begins at 7:00 pm.

Pending public comment, I recommend the following motion for approval:

“THAT THE DISTRICT GOVERNING BOARD approve the amended Chapter 31-11 Rule as presented with an effective date of October 19, 2015.”

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Gordon M. Boggie
Board Member

Dr. Matt H. Rostock
Board Member

Stephen B. Rockoff
Chairman

Harvey M. Silverman
Board Member

James D. Snyder
Board Member

Chapter 31-11, Special Assessments

- 31-11.001 Method of Special Assessment.
- 31-11.002 Allocation of Cost.
- 31-11.003 Special Assessment Procedures.
- 31-11.004 Objections to Special Assessments.
- 31-11.005 Board of Adjustment.
- 31-11.006 Re-assessment.

31-11.001 **Method of Special Assessment.** Special assessments against property deemed to be benefited by assessable ~~local~~ improvements declared available and furnished by the District shall be assessed upon the property specially benefited by the assessable improvements in proportion to the benefits to be derived there from, with said benefits to be determined and prorated according to a square footage basis, per property basis, or by other methods as the Governing Board may deem fair and equitable.

Specific Authority Ch. 71-822, Special Acts of Florida, 1971, as amended. Law Implemented Ch. 71-822, sections 2, 5(10), 6(2), (10); sections 6(9), (12) as amended by Ch. 76-429; section 6(10) as amended by Ch. 78-559. History – New 10-18-82, Formerly 31-11.01. Amended 10-15-2015

31-11.002 **Allocation of Cost.** Based upon the aforesaid fair and equitable allocation of costs, the District hereby establishes a policy defraying in part the total estimated cost of specially assessed improvements. The District shall pay from the District's general funds 10% of the total cost to the District of construction, reconstruction, labor, materials, acquisition or property rights, surveys, design, engineering and legal fees, administrative expenses, and all other expenses necessary or incident to completion of the specially assessed improvements. The remaining 90% of the total cost shall be equitably prorated among the benefited properties as the Governing Board may deem fair and equitable.

Specific Authority Ch. 71-822, Special Acts of Florida, 1971, as amended. Law Implemented Ch. 71-822, sections 2,6(2), (10); sections 6(9), (12) as amended by Ch. 76-429; section 6(19) as amended by Ch. 78-559. History – New 10-18-82, Formerly 31-11.02. Amended 10-15-2015.

31-11.003 **Special Assessment Procedures.** In accordance with the provisions of Section 6(12) of Chapter 71-822, Special Acts of Florida, 1971, as amended, the District shall take the following steps in establishing special assessments against property located within the geographic area of the District:

- (1) At a duly noticed meeting, the Governing Board shall adopt a resolution setting forth with specificity a description of the proposed improvements, and ordering construction or reconstruction thereof.
- (2) Upon adoption of such resolution, the District Engineers and staff shall prepare plans, specifications and estimated total costs of such proposed improvements, together with a tentative apportionment of such costs between the District and individual parcels of property receiving special benefits pursuant to this Chapter. Said plans and tentative

apportionments shall be available for public inspection at the office of the Executive Director.

(3) Upon no less than ten (10) calendar days prior publication of notice in newspaper(s) of general circulation in Martin and Palm Beach Counties, together with notice mailed to those interested parties requesting such in writing, the Governing Board will hear public comments, including concurrence and objections, of all interested persons to the confirmation of such resolution ~~may then the Governing Board may~~ repeal, confirm or amend the resolution ordering the construction of the proposed improvements.

(4) Promptly upon completion of construction or reconstruction of the improvements, the District's Engineer and Staff shall have prepared a preliminary assessment roll and shall file the same with the Executive Director. The preliminary assessment roll shall contain a description of the parcels of the property specially benefited by the improvements, the total costs and expenses related to said improvements, and a fair and equitable apportionment of costs between the District and the individual parcels of property pursuant to the resolution of the Governing Board or the rules and regulations of the District.

~~(5)~~ — Upon no less than twelve (12) days prior publication of notice in newspapers of general circulation in Martin and Palm Beach Counties, together with notice mailed to those interested parties requesting such in writing, the Governing Board, at the next regular or special meeting, shall confirm, annul or modify the assessment roll. Subject to each property owner's right to pay an assessment within thirty (30) days of confirmation, the Governing Board may by resolution prescribe terms of equal annual payments, with interest not exceeding eight and shall assess interest at the rate of eight (8%) percent per annum from expiration of said thirty (30) days, until the assessment is fully paid, provided that the property owner enter into a written agreement for payment of such installments upon terms and in a form approved by the Governing Board and the District's consulting Attorneys. Such forms shall be available for the public at the office of the Executive Director.

~~(6)~~(5) Upon confirmation of the assessment roll, the District shall deliver copies to the offices of the Martin and Palm Beach County property appraisers.

Specific Authority Ch. 71-822, Special Acts of Florida, as amended. Law Implemented Ch. 71-822, sections (9), (12) as amended by Chapter 76-429; section (19) as amended by Chapter 78-559. History – New 10-18-82, Formerly 31-11.03. Amended 10-15-2015

31-11.004 **Objections to Special Assessments.** Interested and substantially affected parties shall make any objections to the resolution of the Governing Board or the assessment roll submitted in writing to the District either prior to or at the time of the respective meetings as set forth in Rule 31-11.003. —all objections to any such Special Assessment Resolution in writing, and filed with the Governing Board at or before the adjourned time of the respective meetings as set forth in Rule 31-11.003. Any objections against the making of any improvement not so made shall be considered as waived, and if an objection shall be made and overruled or shall not be sustained, Confirmation of the resolution by the Governing Board shall be the final adjudication of the issues presented unless proper steps shall be taken within four (4) years to secure relief in a court of competent jurisdiction.

~~Any objections not so made shall be considered waived, and confirmation of said resolution or assessment roll shall be deemed final unless proper steps be taken within four (4) years to secure relief from a court of competent jurisdiction.~~

Specific Authority Ch. 71-822, Special Acts of Florida, 1971, as amended and Florida Statutes 95.11. Law Implemented Ch. 71-822, sections (9), (12), as amended by Ch. 76-429; section (19) as amended by Ch. 78-559. History – New 10-18-82, Formerly 31-11.04, Amended ~~3-23-00~~ 10-15-2015.

31-11.005 **Board of Adjustment.** Upon no less than ten (10) calendar days prior publication of notice in newspapers of general circulation in Martin and Palm Beach Counties, the Governing Board shall meet as a Board of Adjustment to hear and consider any and all complaints as to such proposed or confirmed special assessments and may adjust and equalize said special assessments on a basis of justice and right. When said special assessments are confirmed or~~se~~ equalized and approved by resolution of the Governing Board, said assessments shall stand confirmed and remain legal, valid and binding liens upon the property against which such assessments are made, until paid, pursuant to the provisions of Chapter 71-822, Section 6(12), Special Acts of Florida, 1971, as amended.

Specific Authority Ch. 71-822, Special Acts of Florida, as amended. Law Implemented Ch. 71-822, sections (9), (12), as amended by Ch. 76-429; sections (19) as amended by Ch. 78-559. History – New 10-18-82, Formerly 31-11-05.

31-11.006 **Re-assessment.** Whenever any assessment shall be void or unenforceable for any reason, the Governing Board may order a re-assessment provided that the District shall adhere to the publication, notice and meeting procedures of this Chapter.

Specific Authority Ch. 71-822, Special Acts of Florida, as amended. Law Implemented Ch. 71-822, sections (9), (12), as amended by Ch. 76-429; section (19) as amended by Ch. 78-559. History – New 10-18-82, Formerly 31-11.06.

31-11.007 **Payment of Assessments.** Each assessed property owner has the following opportunities to pay a confirmed assessment:

(1) Any assessment fully paid within thirty (30) calendar days of confirmation shall not include interest.

(2) Any assessment not paid within thirty (30) calendar days of confirmation will be delivered to the appropriate county property appraiser. The Governing Board may by resolution prescribe terms of equal annual payments, with an interest rate not exceeding (8%) percent per annum from expiration of said thirty (30) days, until the assessment is fully paid. All such assessments shall be payable in equal annual installments, pursuant to the resolution of the Governing Board or the rules and regulations of the District.

(3) Any assessment may be paid at any time before due, together with interest accrued thereon to the date of payment.

(4) For properties outside the District's legislatively defined boundary, the assessment shall be due and payable within thirty (30) calendar days of confirmation

unless the owner of an assessed property enters into a written agreement for payment of such assessment via installments upon terms and in a form approved by the Governing Board and the District's consulting Attorneys. Such forms shall be available for the public at the office of the Executive Director.

(5) The District may collect assessments, with interest and reasonable attorney's fees and costs, but without penalties, by proceedings in a court of equity to foreclose the lien of assessments. Any such proceedings to foreclose shall embrace all installments of principal remaining unpaid with accrued interest thereon, which installments shall, by the institution of such proceedings, immediately become and be due and payable.

Specific Authority Ch. 71-822, Special Acts of Florida, as amended. Law Implemented Ch. 71-822, sections (9), (12), as amended by Ch. 76-429; section (19) as amended by Ch. 78-559. History – New 10-15-15.