

THE FLOW

Upcoming Events

December 9th
NUCA of Florida
Board of Directors
Zoom Call
10:30 am

December 15th
Executive Committee
Meeting
12:00 noon

January 21st
Board of Directors &
Installation of Officers
Maggiano's
6:00 pm



DECEMBER 2020

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2020 OFFICERS & BOARD OF DIRECTORS

EXECUTIVE COMMITTEE

President

Chad Cockrell, A. J. Johns, Inc.

President-Elect

Gabriel Powers, Burnham Construction

Vice President I

Marty Adams, TB Landmark

Vice President II

Open

Secretary/Treasurer

Rob Pinkston, Ferguson Waterworks

General Counsel

Tony Zebouni, Lindell & Farson, & Zebouni

Past President

Mike Kivlin, John Woody, Inc.

BOARD OF DIRECTORS

Wesley Cook, Florida Roads Contracting

Rick Erickson, Beard Equipment Company

Tim Gaddis, Vallencourt Construction

Billy Hood, J. B. Coxwell Contracting

Drew Lane, Advanced Drainage Systems

Chance Leonard, ECS Florida

Rick Parker, Forterra Pipe & Precast

Barry Watson, Fortiline Waterworks

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Jon Woodall, John Woody, Inc.

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PRESIDENT'S MESSAGE

Dear Friends,

I hope that you all are healthy and doing Well. Thank you to all our monthly sponsors, we couldn't be as successful as we are without you!

We held our annual Top Golf event on November 19, 2020, all who attended had a great time. We want to thank all of our sponsors that helped make this event successful. All of the proceeds from this event will be given to our State NUCA Chapter to help them through this trying year. We will be sending out an email for the Election of Officers, the election will be held electronically, just like last year. On January 21, 2021 will be installing our new Officers, more information will be forthcoming on the location.

This will be my last Presidential message. I would like to thank all of our members that have supported our organization over the years, most of you have been members for a very long time and we greatly appreciate all of the support that you have given us. I would also like to thank all of the Executive Committee and Board of Directors members for supporting me throughout the year. You all have made my tenure as President enjoyable and I appreciate all of the support that you gave me. This has been a trying year for all of us, but we still managed to find new ways to keep everything moving forward. I would like to introduce Gabriel Powers, who will be installed as our new President on January 21, 2020. I wish him well and know that we as an organization are in good hands with the Officers & Directors that will be installed.

As always, please continue to support our members and associates. If there is anything, I can do to help you out, please do not hesitate to give me a call. I look forward to working with you all..

Sincerely,

Chad

2020 NUCA of North Florida

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Gate Fuel Service
John Woody, Inc.
Lippes & Bryan
Petticoat-Schmitt Civil
Contractors

CALENDAR OF EVENTS

Dec. 9th

NUCA of Florida
Board of Directors

Dec. 15th

Executive Comm. Meeting

Jan. 12th

Executive Comm. Meeting

Jan. 21st

Board of Directors
& Installation of Officers

Feb. 4th to 6th

NUCA Convention
Naples Grande Beach Resort

Feb. 9th

Executive Comm. Meeting

April 13th

Golf Tournament
St. Johns Golf & Country Club

The Law and Your Business

The Law and Your Business— Unconstitutional Conditions Doctrine By Tony Zebouni, Lindell, Farson & Zebouni

In a most recent appellate court decision regarding the FDOT the Appellate Court reversed a lower court decision in favor of the FDOT.

This case centers around the development of commercially zoned property to be anchored by a Toyota dealership in Polk County. Vehicular access to and from the property is via U.S. 27, which is owned and managed by FDOT. In the course of development, Murphy sought a driveway connection permit to construct acceleration/deceleration turn lanes within the existing U.S. 27 right-of-way to provide access to and from the dealership. To complete the lane construction, Murphy proposed to fill in an existing drainage ditch owned and operated by FDOT that spanned the length of Murphy's property. Murphy was also required to obtain a drainage connection permit due to the increase in impervious asphalt in the right-of-way. FDOT initially proposed that Murphy dedicate twelve feet along its property's frontage to reestablish the drainage ditch. Murphy declined to dedicate the property and countered with a proposal to use the existing drainage collection system and grant FDOT a drainage easement around an existing retention pond for any necessary expansion. FDOT instead required that Murphy, at its sole expense, reconstruct the drainage collection system as a condition for approval of the drainage connection permit. Murphy dedicated the drainage easement, expanded the pond, constructed the turn lanes, and reconstructed the drainage collection system. The reconstruction cost Murphy over \$650,000.

Murphy filed an inverse condemnation action asserting in claim one that the drainage improvements exacted by FDOT constituted a taking because they were not roughly proportional to the project's drainage impacts.

Under the Takings Clauses in both the United States Constitution and the Florida Constitution, governmental entities may not take private land for a public purpose without paying just compensation. Amend. V, U.S. Const.; Art. X, § 6, Fla. Const. "One of the principal purposes of the Takings Clause is 'to bar Government from forcing some people alone to bear public burdens which, in all fairness and justice, should be borne by the public. The government may not require a person to give up a constitutional right -- like the right to receive just compensation when property is taken for a public use -- in exchange for a discretionary benefit conferred by the government where the benefit sought has little or no relationship to the property.

In this case, the government first proposed that the landowner dedicate a portion of its property to obtain a permit. When the landowner refused, the government demanded that the landowner spend money to improve government-owned land as a condition of permit approval in the course of the owner's development of its own land. FDOT's demand that Murphy spend money to reconstruct FDOT's drainage collection system operated upon Murphy's interest in its commercial property "by directing the owner of a particular piece of property to make a monetary payment. This is a land use exaction because it burdened Murphy's right to develop its commercial property by providing access to and from the dealership.

FDOT maintained that it enjoyed sovereign immunity that barred recovery by Murphy. The appellate court disagreed with the FDOT position regarding Sovereign Immunity. *Murphy Auto Group v. FDOT*

2020 CLAY SHOOT RESULTS

Thank you to everyone who came out to shoot at our Election Day event. We had a total of 40 teams registered, 20 in the morning and 20 in the afternoon. Everyone seemed to enjoy the new format and I think we will continue to have both a morning and afternoon shoot in the future.



First Place Team

TB Landmark Score: 390



Second Place Team

J. B. Coxwell Score: 380



Third Place Team

Cecil W. Powell & Co. Score: 378

PERFECT SCORE

T.J. Hawk
Mark Fabien
Blake Nugent
Brian Henderson

Raffle Winner: Luke Gowen

50/50 Winner: Joe Patterson

Thank you to our awesome
volunteers who helped at
registration or worked a station:

Alexis Saffer, Rick Parker, Molly
Soltis, Valinda Krynicki, Bryan
Hancock, Lyle Hoffman, and
Kelly Brennan.



THANK YOU



THANK YOU

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RAFFLE SPONSOR

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J. B. Coxwell Contracting
J.D. Hinson Company
Standard Precast Corp.
United Rentals Fluid Solutions**

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John Woody, Inc.**

**Nimnicht Chevrolet
Ritchie Bros Auctioneers, Inc.
TB Landmark Construction, Inc.
USI Insurance Services, LLC**

STATION SPONSORS

**A.J. Johns, Inc.
All Pro Asphalt, Inc.
Alta Construction Equipment, LLC
Cecil W. Powell & Company
ECS Florida, LLC
Fortiline Waterworks**

**Gate Fuel Service, Inc.
J.B. Coxwell Contracting, Inc.
Legacy Engineering, Inc.
Pro-Line Survey Supply
Synergy Equipment
United Rentals Trench Safety**



NUCA Board Approves NUCA Kentucky Chapter Application

At the October 29th NUCA Fall Board of Directors meeting, the full Board approved NUCA Kentucky Chapter to a new chapter status. NUCA's 31st Chapter will be officially inducted at the 2021 Convention. Congratulations and many thanks to the dedicated NUCA members in Kentucky and Tennessee whose hard work made this possible. To join the Kentucky chapter, go [here](#).

NUCA Seeks CARES Act Extension to 2021

NUCA sent a letter Nov. 17th to Congressional leadership seeking an extension of the CARES Act resources allocated by Congress in March for coronavirus relief. Extending the deadline from this December to Dec. 31, 2021 will keep NUCA members on the job building new infrastructure such as expanded broadband services and other essential projects. Read our letter [here](#).

NUCA/PAC Touts 100% Success in 2020 Election

NUCA/PAC, the political action committee of our association, is pleased to report that 100% of the Congressional candidates our industry supported won their 2020 election. Each of those U.S. Senate and House winners earned their backing by demonstrating strong support of the U.S. utility construction industry and NUCA's legislative program in Congress.

NUCA Awards Are Open: Promote Your Excellence

NUCA Awards are open! Safety Awards, Top Jobs, Awards of Excellence & Chapter Merit award are ready for your nominations. Recognize your outstanding 2020 projects and fellow NUCA members for their excellence. Entry deadlines are coming up fast, so please enter soon. Award winners will be announced at NUCA's 2021 Convention in Naples, Fla. Start here: nuca.com/awards

Back to the Beach: Register Now for NUCA's 2021 Annual Convention

NUCA is headed back to the Naples Grand Beach resort for our 2021 annual meeting & convention, Feb. 4-6, 2021. We are excited to revisit an amazing location on the beautiful beaches of Florida for another memorable NUCA convention! Get out of the house and come network with your fellow NUCA members and industry professionals in a beautiful setting. [Learn more here](#).

NUCA WINS: A Best Practice in Your Reporting

NUCA's Workplace Incident Notification System (NUCA WINS) is a damage incident recording app that employees' can easily operate on their mobile device to document the situation at the point-of-occurrence. In a matter of a few minutes' incidents can be easily and completely documented, including: injuries and illnesses; property, liability, and utility strikes; near misses; safety observations; and more. Learn more [here](#).

Trench Safety Stand Down: June 14-18, 2021

NUCA leadership released the dates for the next TSSD, scheduled for June 14-18, 2021. NUCA's member-wide safety stand down presents the opportunity for employers to talk directly to employees and others about safety around excavations and protecting employees from trenching hazards. This will be NUCA's eighth TSSD event (and our second June Trench Safety Month), so please mark those dates on your 2021 training calendars and plan to participate.

SAFETY NEWS

By Jeff Blomgren
Safety Director at Petticoat-Schmitt Civil Contractors

COVID and the Holidays

By the time you read this we would have been through the Thanksgiving holiday and we are kicking off the rest of the holiday season and if the holidays weren't challenging enough, now we have COVID and the complications it brings to normal holiday routine. The CDC has issued guidelines for the holidays that make it seem like not much of a holiday. Restrictions on travel, gatherings, COVID prep for awareness of the possible exposure to people outside our immediate household are depressing. There's even suggestions on having virtual Christmas. How tasty can that virtual turkey be? Still, it's important to find things to be thankful for in the restricted environment that we live in today. The sun and stars still shine and the tides ebb and flow and life goes on. Our challenge is to remain positive and use what influence we have within our restrictions to make the world a better place. The worst thing about masks is that you can no longer see a smile. However, a wave can work. Speech becomes more important because we can say what people can't see but they can hear a muffled friendly greeting.

What's all this got to do with safety? Safety is a mindset. Whatever takes our mind off the objective of living and working safely is a distraction that can be hazardous and there's plenty to distract us. So, what can we do about it? Focus on what's important and how we can maintain a positive attitude for those who depend on us for strength and leadership. We have immediate needs, those that are not so urgent and those that can wait. Prioritize those and plan ahead. Preparing for these times takes planning. More than in the past. Safety considerations are not as simple as, don't let your Christmas tree burn the house down or fall off the ladder hanging the lights on the house or let the turkey explode in the deep fryer. Now, it's protect the family, do what's right for them and all those you care for and come in contact with. Be safe everywhere and have a really great holiday season.



Clay Shoot Photos



More Clay Shoot Photos





“The Good Stuff in 2020”

By Kari Hebrank, Executive Vice President

What a year 2020 has been, unprecedented times presenting unprecedented challenges. Your state association is no different—we also have faced extreme challenges, from ensuring our members were “essential workers” during the start of the pandemic, to finding ways to cut expenses to compensate for revenue shortfalls, to locating the “mute” button during Zoom Board meetings and finding a way to implement a socially-distanced corn hole tournament. However, as we reflect on the past year, there was plenty of “good stuff” that was accomplished. Below are just some of NUCA of Florida’s advocacy efforts, both regulatory and legislative successes, from this past year.

- We worked with the Governor’s office to ensure underground utility contractors were deemed “essential workers” and “Critical Infrastructure Workforce” and that the associated work was considered “essential services” for public safety when the pandemic struck and a statewide “stay-at-home” order was in effect.
- We intervened when some South Florida cities were not allowing construction to take place and worked to ensure our contractors were up-to-date on CDC and OSHA guidelines for workplace safety during COVID-19 pandemic, and established a COVID-19 reference section on the NUCA of Florida website.
- We intervened when Martin County, Hallandale Beach and Lake Worth Beach revised their RFP process to require underground utility work be completed by a “Commercial General Contractor” even though the work described was under the scope of an underground utility contractor.
- We passed our priority legislation (HB 279) relating to the public works bidding process to mandate local governments determining whether it is in their best interest to self-perform public works projects must include the same direct and indirect costs accounted for by the private sector in their determination. HB 279 levels the playing field between local governments and the private sector.



- We helped secure \$236.6M for water quality improvements, including \$25M for septic- to -sewer conversion and an additional \$10.8M for the Blue Green Algae Task Force recommendations; \$13M for Small County Wastewater Treatment grants; \$130.7M for the Drinking Water Revolving Loan Program; \$228.6M for the Wastewater Revolving Loan Program; and, \$177.8M for Hurricane Recovery-Related Drinking & Wastewater Revolving Loan Program, as well as a new wastewater grant program for septic conversion included in the omnibus water policy bill, SB 712.
- We passed legislation to reduce the limits on retainage permitted to be withheld on state and local government contracts from the current 10 percent down to 5 percent (HB 101).
- We defeated proposed legislation that would have arbitrarily increased fines for damage on underground utility lines caused by contractors and passed provisions requiring a certain percentage of citation fees be utilized for damage-prevention education by Sunshine 811 (HB 1095).
- We defeated a proposal that would have required contractors, subcontractors and material suppliers to be in direct privity with the owner for the construction lien law (HB 897/SB 1422).
- We prohibited new or increased impact fees from applying to current or pending permit applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee and authorized the transfer of impact fee credits within jurisdictions for the same type of public infrastructure or facility for which the impact fee applies (SB 1066).
- We limited linkage fees which impede construction projects, passed provisions relating to affordable housing and mandated annual reporting of impact fees by local governments to the Department of Financial Services (HB 1399).
- We prohibited local governments from providing "Rights of Nature" legal rights to any plant, animal, body of water, or other part of the natural environment unless otherwise specifically authorized by state law or the State Constitution (SB 712).
- We passed legislation ensuring employers have the option to choose E-verify or the I-9 program when certifying new employee hires (SB 664).
- We secured full funding for the Sadowski Act for affordable housing initiatives.
- We increased participation in our Legislative Days event and our Annual Bass Tournament and initiated the first-ever NUCA of Florida Corn Hole Tournament in conjunction with our annual President's Cup golf event.
- Lastly, we contributed to 75 legislative campaigns during the recent election cycle and only lost two very close races.

2021 MEMBERSHIP
DUES INVOICES

WILL BE MAILED OUT
THE FIRST WEEK OF
DECEMBER

PAYMENT IS DUE BY
JANUARY 31ST!



IMPORTANT
ANNOUNCEMENT



* HAPPY *
HOLIDAYS
* JOYFUL NEW YEAR *



NAPLES FLORIDA

Annual Convention and Exhibit

February 4–6, 2021

Let's Go Back To The Beach

**Naples Grande Beach Resort
475 Seagate Drive | Naples, Florida**

Generously Sponsored By Our National Partners

NUCA is heading back to the Naples Grande Beach Resort in Naples, Florida, for our 2021 Annual Meeting & Convention. After a year without travel, heading to the beautiful Naples Grande Beach Resort in Florida to reconnect, learn, talk business, and having a little fun makes a lot of sense.

- Engaging committee meetings
- Meeting new industry colleagues and old friends
- Colleague recognition awards & Top Jobs
- Thought-provoking educational and roundtable sessions
- Exhibits with our National Partners
- Memorable team building & live auction events
- 2nd Annual CEO Bobble Head Golf Tournament
- Inspiring speakers, fun social events, and so much more!

Come to Florida & Enjoy Your NUCA Membership!

WWW.NUCA.COM/CONVENTION



Registration is Now Open!

Early-bird registration ends
November 30, 2020.

2021 SLATE OF OFFICERS

You should have received an email earlier this week with a link to vote for the 2021 Officers & Directors. Only one vote per company. **Deadline to vote is Friday, December 4th.**

2021 OFFICERS & BOARD OF DIRECTORS

EXECUTIVE COMMITTEE

President

Gabriel Powers, Burnham Construction

President-Elect

Marty Adams, TB Landmark

Vice President I

Tim Gaddis, Vallencourt Construction

Vice President II

Caleb Hulbert, A.J. Johns

Secretary/Treasurer

Rob Pinkston, Ferguson Waterworks

General Counsel

Tony Zebouni, Lindell & Farson, & Zebouni

Past President

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Rick Erickson, Beard Equipment Company

Paul Gilsdorf, Petticoat-Schmitt Civil Contractors

Billy Hood, J. B. Coxwell Contracting

Mike Kivlin, John Woody, Inc.

Valinda Krynicki, United Rentals Trench Safety

Drew Lane, Advanced Drainage Systems

Chance Leonard, ECS Florida

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