

**MINUTES OF A REGULAR MEETING OF
THE BOARD OF SUPERVISORS OF THE
LAKE WORTH DRAINAGE DISTRICT
HELD AT THE DELRAY BEACH OFFICE ON
JUNE 12, 2013 AT 8:30 A.M.**

There were present:

Harry Raucher	Joann Aylor	Deborah Harris	Ed Sol
John I. Whitworth, III	Lena Owens	Thomas Barry	Bill Epstein
James Alderman	Fran Cappellini	Michael Brady	William Briard
C. David Goodlett	David Bends	Melissa Wheelihan	Kirk Grantham
Robert M. Brown	Shaughn Webb	Lany Altman	Carlos M. Gonzalez
Mark A. Perry	Rosemary Rayman	Adam Johnson	Jill Genson
Michael D. Baker	Megan Hanney	Armando Pereda	Murray Kalish
Carol W. Connolly	Karen Hoyt	Vickie Smith	Alice Finst
Patrick Martin	Bob Wise	Anne Perry	Joseph Walsh

Senior Vice President Joyce Haley absent

1. Call to order by the President
2. Pledge of Allegiance
3. Board Agenda approval

*Vice President Whitworth made a motion to approve the Board Agenda.
Supervisor Alderman seconded and it passed unanimously.*

4. Announcement – Notice of June 12, 2013 Board meeting was published in the Palm Beach Post
5. Approval of Minutes, Check Register, Financial Statement, Documents and Self-Insurance fund for the previous month

*Supervisor Goodlett made a motion to approve the minutes, check register, financial statement, documents and self-insurance fund for the previous month.
Vice President Whitworth seconded and it passed unanimously.*

6. Recognition of Ronald L. Crone, P.E., P.L.S.

A video of Ronald L. Crone, former LWDD District Manager who passed away May 24, 2013, was shown while President Raucher read an acknowledgment of Mr. Crone into the minutes.

7. Presentation of the Employee of the Month Award

Vickie Smith made the presentation for Shaughn Webb as the Employee of the Month for June 2013. Mr. Webb was congratulated by the Board.

8. **PUBLIC COMMENTS NOT SCHEDULED ON THE AGENDA – Limited to 5 minutes for each speaker**

William Briard of 3663 Woods Walk in Lake Worth spoke to the Board regarding the L-11 Canal Rehabilitation project that is scheduled to commence next week. Mr. Briard stated that he was informed by District staff that a portion of his pool fence was located within the District's L-11 Canal right-of way. He further stated that permits were obtained from Palm Beach County for both the pool and associated fence and they were installed in late 2012. Mr. Briard said it was never his intention to intentionally encroach into the District's property and that he was not here to argue the appropriateness of an encroachment fee. He did acknowledge that he relied on a site plan which was

inaccurate. Executive Director Robert Brown stated that there are three other fences in the immediate area encroaching within District right-of-way that will be removed, as well as a playground. In addition, he stated that all exotic and nuisance vegetation will be removed. Supervisor Goodlett asked staff if there is sufficient room to conduct maintenance in this area. Mr. Brown said that in his opinion there is sufficient room to conduct maintenance, (approximately 35 – 40 feet). Mr. Briard said that he is not disputing the right-of-way line. Mr. Brown stated that staff has informed all adjacent landowners of the need to remove structural encroachments within the District's right-of-way. Supervisor Alderman commented that the District has established a precedent to not allow encroachments. He questioned the repercussions of granting Mr. Briard this right. Lastly, he asked how Palm Beach County could issue a permit to an individual to construct the fence in LWDD right-of-way. Mark Perry, District Legal Counsel said that it was basically a black and white situation under previous management. Since Mr. Brown's arrival, staff has been looking at each situation on a case-by-case basis and that he agrees with that new direction. In this instance, Mr. Perry said that he would have no problem with developing a procedure for variances where it is based upon hardship. This gentleman did obtain the necessary permits and we do have sufficient right-of-way to accomplish maintenance. Mr. Briard is requesting a variance for the purpose of public safety because he must have a fence around his pool. Mr. Perry stated that Mr. Briard relied on a site plan which depicted the house at a location further to the south. Accordingly, his measurements were incorrect as his house was constructed approximately ten feet further to the north than depicted on the site plan. Mr. Perry stated that the request meets the definition of a hardship and that he would not have a problem with recommending some type of variance if the Board is comfortable with this proposal. Supervisor Alderman asked the Board for guidance in whether staff should develop a policy for variances. Mr. Perry responded that staff should and that this one should be relatively easy as it is based on public safety, as well as the District having sufficient right-of-way. Supervisor Alderman questioned other encroachments that he observed within District right-of-way. Mr. Briard responded that they will be removed. Mr. Perry stated that the other fences encroaching into District right-of-way were more for convenience and should be removed.

Supervisor Goodlett made a motion to delay this issue for thirty (30) days in order to provide staff and the petitioner with additional time to resolve issues in such a way that protects both parties.

Supervisor Alderman seconded the motion, but stated that he would like Counsel to report back regarding any precedent setting issues that this may pose. His concern is that the Board approve this request and then have an attorney representing a similar request be denied and pursue litigation.

Mr. Brown mentioned to the Board that the District is scheduled to commence with the L-11 canal clearing next Monday (June 17, 2013) and that this reach will be cleared within the first thirty days. He recommended that Mike Baker and his staff proceed with the clearing of the L-11 Canal right-of-way adjacent to Mr. Briard's property and revisit the fence issue next month.

President Raucher called for the vote on the motion made by Supervisor Goodlett and seconded by Supervisor Alderman and it passed 3 votes to 1 with Vice President Whitworth opposing.

CONSENT AGENDA

9. Pylon Professional Center – L-32, LWDD Project No. 09-314P.03

Patrick A. Martin, P.E., Director of Engineering & Right-of-Way – Re: Hexagon Military Trail LLC (property owners) request to execute a Piping, Paving and Parking Easement Agreement.

*Vice President Whitworth made a motion to approve the Consent Agenda.
Supervisor Alderman seconded and it passed unanimously.*

WORKSHOP

10. **Disposal Listing of Office Furniture, Fixtures and Equipment**

Karen Hoyt, Director of Finance

Ms. Hoyt said she would like to dispose of several items that have been deemed no longer useful to the District. In order to do this, the Board must declare these items surplus in accordance to the Florida Statutes.

Supervisor Goodlett made a motion to approve.

Supervisor Alderman seconded and it passed unanimously.

DISCUSSION AGENDA

11. **Lots 1 & 2, Block 4, Amended Plat of Blocks 1 thru 6 & North Part of Block A of West Gate Estates – L-1 (Abandoned), LWDD Project No. 13-946P.37**

Kirk Grantham, Grantham Law Firm (Thomas Barry, Surveyor) – Re: Request to declare underlying Chancery Case 407 eligible and Quit Claim for \$180.00, certificate of title, sketch of description due to Marketable Record Title Act (MARTA).

Mr. Barry gave a PowerPoint presentation on Lots 1 & 2, Block 4, Amended Plat of Blocks 1 thru 6 & North Part of Block “A” of West Gate Estates on the L-1 Canal, which has been abandoned. The project is located on the north end of the District adjacent to Okeechobee Boulevard. Pursuant to Chancery Case 407, the District is the underlying fee owner of the North 56.76 feet of the NE ¼ of the NW ¼ of Section 30, Township 43 S, Range 43 E. This Chancery affects the North 29.51 feet of the subject land description. There is no canal at this location and the District has previously issued quit claim deeds to adjacent parcels.

STAFF RECOMMENDATION MADE BY THOMAS BARRY – To declare eligible the underlying Chancery Case 407 ownership and quit claim for \$180.00, certificate of title and sketch of description done by a professional surveyor and mapper registered in the State of Florida due to the Marketable Record Title Act and the fact that the District does not have a canal adjacent to the property.

Vice President Whitworth made a motion to approve.

Supervisor Alderman seconded and it passed unanimously.

12. **Jill Genson (Boca Grove Plantation) – L-46, LWDD Project No. 13-6831P.13**

William L. Epstein (Patrick A. Martin, Director of Engineering & Right-of-Way) – Re: Request to approve a fence located in the L-46 Canal right-of-way, subject to owner executing an Encroachment License Agreement.

Mr. Martin gave a PowerPoint presentation on this item which is located in the south portion of the District. A fence encroachment was observed by the District’s inspector. A violation notice was placed on the partially constructed fence and ultimately removed. The fence was constructed approximately 10 to 12 feet within the L-46 Canal right-of-way. There are existing encroachment agreements in the immediate area where property owners were allowed to encroach 8 feet into the District’s right-of-way.

STAFF RECOMMENDATION MADE BY PATRICK MARTIN – Approval of an encroachment agreement, but limited to 8 feet. There will be a \$40.00 per foot charge instead of the normal \$20.00 per foot charge since the fence was installed prior to obtaining a District permit.

William Epstein representing the property owner, Ms. Genson, stated that he is requesting the fence be allowed to remain where it is currently located as there was no ill intent intended. He further stated that the fence needed to be closed off to protect the pool. However, if 8 feet is as far as the Board is willing to approve then his client would accept that and enter into an encroachment agreement.

Supervisor Goodlett made a motion to approve the fence pursuant to the previously required distance of 8 feet.

Supervisor Alderman seconded and it passed unanimously.

13. **Kids College – L-6, LWDD Project No. 04-7543P.01**

Carlos Gonzalez, Metro Architectural Group, LLC (Mark A. Perry, Legal Counsel) – Re: Request approval for the determination of “fair market value” and “fair market rental value” based on appraisal.

Mr. Perry said this item was before the Board last month and that the Board approved the Piping, Paving and Parking License Agreement and the purchase of right-of-way from Lake Worth Drainage District. The reason the petitioner is back today is that they have presented an appraisal for the fair market value of the property at \$2.25 per square foot. The appraisal was prepared by Anderson & Carr which Mr. Perry said he felt was based on appropriate comparisons. He further stated that he is advising the Board to accept the fair market value of \$2.25/sq. ft.

STAFF RECOMMENDATION MADE BY MARK PERRY – Approval of fair market value of \$2.25/sq. ft.

Supervisor Goodlett made a motion to approve the attorney’s acceptance of the fair market value.

Supervisor Alderman seconded and it passed unanimously.

14. **L-4 Canal Rehabilitation Project – L-4, LWDD Project No. 12-9286P.01**

Thomas Barry, Surveyor – Re: Declare eligible underlying fee of the 8 lots, and the Tract 25, Haverhill Riding Estates to Quit Claim for \$180.00, certificate of title, pursuant to LWDD Policies.

Mr. Barry gave a PowerPoint presentation on this item which is located on the north side of the L-4 Canal. This clearing project was approved by the Board of Supervisors on January 13, 2010 and the project limits are from the E-3 Canal east to Haverhill Road. All clearing will be done on the north side. The first issue raised on this project is that there is Chancery Case 407 affecting a number of these parcels. In Tract 25 of Haverhill Riding Estates, the Chancery Case affects the South 13 ft. of the SW ¼ of the NE ¼ and the South 22.62 ft. of the SE ¼ of the NE ¼. The Town of Haverhill abandoned the 20 foot road that was on the Haverhill Riding Estates Plat. The adjacent property owners quit claimed the entire 20 foot to themselves by various documents. Mr. Barry showed Board members the location of the Chancery line and where it bifurcates houses and patios. Staff met with the Mayor, Administrator, Public Works Director and the Attorney of the Town of Haverhill to discuss the issue of the encroachments. Mr. Barry stated that three of those eight houses in their last deed of record have no mention of the District’s right-of-way. Some of the lots depict it as being a 7 foot easement while some lots show it as being 7 foot for canal right-of-way. The Town of Haverhill has offered their town hall facility as a meeting place with the property owners.

STAFF RECOMMENDATION MADE BY THOMAS BARRY – Declare the underlying fee eligible for the eight lots along Ivy Lane in Tract 25 Haverhill Riding Estates, issue quit-claim deeds for \$180.00, certificate of title, pursuant to LWDD Operating Policies and subject to receiving back the appropriate easements to the District.

Vice President Whitworth made a motion to approve staff recommendation.

Supervisor Goodlett seconded and it passed unanimously.

15. **Resolution No. 13-05**

Carol W. Connolly, Director of Administrative Services – Re: Resolution of the Governing Board of Lake Worth Drainage District Establishing Authorized Exemptions from the Lake Worth Drainage District Non-Ad Valorem Assessment.

Ms. Connolly described Resolution No. 13-05 which deals with the approved exemptions to the District’s tax roll. The only change is to recognize that Palm Beach County moved CRA’s and DDA’s from a municipality code to its own code which is now No. 6.

STAFF RECOMMENDATION MADE BY CAROL CONNOLLY – Approve Resolution No. 13-05.

Supervisor Goodlett made a motion to approve Resolution No. 13-05.

Vice President Whitworth seconded and it passed unanimously.

STAFF REPORTS

16. Board comment

Supervisor Goodlett asked if the Board would consider moving the start of the Board meetings to 9:00 AM versus 8:30 AM.

President Raucher said the District is in great shape due to the tremendous job that staff does in maintaining the canals and associated right-of-way.

17. Executive Director's Report

Mr. Brown also commended staff in response to the tremendous amount of rain received over the last 6 weeks.

a. Director of Operations & Maintenance

Mr. Baker provided an update on the replacement of Control Structure No. 3 located west of State Road 7 (441). The wing walls have been completed and the pumps installed. The building permit was recently issued, so the walls to the pump house should commence very shortly. The proposed completion date is August 15, 2013.

Mr. Baker also provided an update on Control Structure No. 9 located at the C. Stanley Weaver Canal and Lawrence Road. The north pump was installed and the gates were removed and sandblasted. This project must be coordinated very closely with FPL because of the close proximity to their power lines. FPL will be de-energizing the power each Tuesday in order for the District to complete the work.

b. Director of Administrative Services

Ms. Connolly said that we have a new phone system which is much enhanced over the previous system. It provides us better access to our residents. The public now has greater opportunity to gain information on storm related openings and closings of their internal structures.

c. Director of Engineering & Right-of-Way

Mr. Martin provided an overview of continuing work on the C-51 Project. Broward County has asked the District to join the Broward County Working Group. Mr. Martin said that he discussed this request with Mr. Brown and it was decided that the District should join the Working Group. Mr. Martin will represent the District at the meetings and Mr. Brown will act as alternate. Mr. Martin further stated that District staff have been meeting with Mr. Ernie Cox and Mr. Phil Gilden (representing Palm Beach Aggregates) and continue to discuss the conveyance and governance documents.

Mr. Martin said that a meeting has been scheduled with South Florida Water Management District to discuss the various permitting options, such as a preferred source consumptive use permit. If approved, this preferred source consumptive use permit would state that the water in the C-51 Reservoir is purely for utility and water supply purposes and cannot be allocated to other users. The District is considered a utility and is included as a user. Mr. Martin said the District will not entertain reopening our existing consumptive use permit as the District does not desire to jeopardize the District's source of water from Water Conservation Area 1 (WCA1). Supervisor Alderman asked if agriculture is included in the use of the water. Mr. Martin responded yes. He further stated that it is not a land use issue, but a water supply issue for all users. Supervisor Alderman asked if the District would be able to use C-51 water; specifically, if it was shut off from WCA1. Mr. Martin answered yes.

d. District Counsel

Nothing

There being no further business, the meeting adjourned at 9:55 A.M.

President – Harry Raucher

Supervisor – James M. Alderman

Absent

Sr. Vice President – Joyce Haley

Supervisor – C. David Goodlett

Vice President – John I. Whitworth, III

Recording Secretary – Joann M. Aylor