

**MINUTES OF A REGULAR MEETING OF
THE BOARD OF SUPERVISORS OF THE
LAKE WORTH DRAINAGE DISTRICT
HELD AT THE DELRAY BEACH OFFICE ON
NOVEMBER 13, 2013 AT 8:30 A.M.**

There were present:

Harry Raucher	Nicole Smith	Deborah Harris	Ed Sol
Joyce D. Haley	Patrick Martin	Thomas Barry	Doug Gunther
John I. Whitworth, III	Fran Cappellini	Michael Brady	Alice Finst
James Alderman	David Bends	Melissa Wheelihan	Jeffrey A. Deutch
C. David Goodlett	Lena Owens	Lany Altman	Jose Gonzalez
Robert M. Brown	Rosemary Rayman	Adam Johnson	Jim Fandrey
Mark A. Perry	Megan Hanney	Armando Pereda	Brian Schmier
Michael D. Baker	Karen Hoyt	Robert Troy Lee	Jean Salem
Carol W. Connolly	Bob Wise	Anne Perry	Daniel Hronec
Joann M. Aylor	Joseph Walsh	William Briard	

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 November 13, 2013 Board meeting was published in the Palm Beach Post
5. Approval of Minutes, Check Register, Financial Statement and Documents for the previous month

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

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

William Briard, 3663 Woods Walk Boulevard, Lake Worth, Florida provided public comment on the District's L-11 Canal Rehabilitation Project as it relates to his pool fence. Mr. Briard reviewed the minutes of the District's June 12, 2013 Board meeting and referenced comments made by Mr. Goodlett, Mr. Brown and Attorney Perry at the meeting. Mr. Briard further stated that he is asking the Board for permission to allow a portion of his fence and associated landscaping located within the L-11 right-of-way to remain. Mr. Perry responded that while the property owner's situation is very unfortunate, this issue was discussed in detail at both the June and August 2013 Board of Supervisors meetings and that staff developed guidelines for the Board to consider when deliberating on whether a project meets the definition of substantial hardship. Mr. Perry stated that when the property owner appeared before the Board at the June 2013 meeting, he spoke during the Public Comment portion and staff were not prepared to respond or make a presentation. Mr. Perry said because it was a pool fence and thought to be the only location in which it could be placed on Mr. Briard's property, initial thought was that we did have a situation for public safety and consequently a hardship. However, upon review of photographs taken from several different locations it was determined that there is sufficient area for the property owner to relocate the fence out of District right-of-way and not interfere with use of Mr. Briard's pool. Mr. Perry further stated that after seeing the photographs, his opinion was the project did not meet the definition of substantial hardship. He further stated that the Board had to make their own

determination and the vote taken at the August 2013 meeting was to require the property owner to relocate the fence out of District right-of-way and onto his property. Mr. Briard said the hardship from Palm Beach County's perspective is that his fence would now be located too close to the pool and it would not be issued a permit. Mr. Perry said this might weigh in as a factor and potentially change the situation. He stated that once again, we are dealing with this issue in a public comment forum and that the Board had previously rendered a decision denying his request to leave the fence in the District's right-of-way. Mr. Brown asked Mr. Briard if the County provided comments in writing regarding the fence relocation not being permissible. Mr. Briard responded with an affirmative. Mr. Brown asked Mr. Briard if he could provide the District with that documentation and again Mr. Briard responded with an affirmative. Supervisor Goodlett asked Mr. Briard if the County had given him an opinion either verbally or in writing that if he moved his fence to his property line, the fence would not be in compliance with County requirements. Mr. Briard said they would not render a legal opinion in his particular case. Mr. Briard said when he asked about his survey, County staff responded that his survey was on microfiche and it has not been updated. He further stated that the County is relying on the survey previously submitted and their opinion is the fence is located within his property. County staff indicated that he may need to obtain a permit to take the fence down and then apply to relocate the fence closer to the pool. Mr. Perry asked the Board if they preferred to postpone this item for 30 days. He further said that it is imperative for the property owner to be able to provide proof that he cannot obtain a permit to relocate the fence. Presently, the Board's August 2013 decision remains in effect and Mr. Briard is required to relocate the fence out of the District's right-of-way. President Raucher asked Mr. Briard to contact Mr. Perry and find out what information would be required from the County and then reschedule this item on a future meeting agenda. Mr. Perry said that a 30 day time period would be sufficient. President Raucher said that would be fine and asked Board members if they wanted to comment and there was none.

CONSENT AGENDA

8. Karen Hoyt, Finance Director – Adoption of the 2014 Operating Budget by Resolution No. 13-07 per the Florida Department of Economic Opportunity
9. Juan Tobar, IT Manager – Computer Lease Agreement with Dell Computer

Supervisor Goodlett made a motion to approve Item Nos. 8 and 9 on the Consent Agenda with Item No. 7 being discussed.

Vice President Whitworth seconded and it passed unanimously.

7. Michael D. Baker, Director of Operations & Maintenance – Re: Update on Leased Equipment

Vice President Whitworth asked staff to briefly describe proposed changes from the lease agreement approved at the October 2013 Board of Supervisors meeting. Mr. Baker responded that after much deliberation, staff decided to modify the prior request and pursue tracked excavators in place of wheeled excavators. The primary reason for this change was due to the fact that much of the District's right-of-way consists of very sandy soils which make wheeled excavators more prone to getting stuck. Supervisor Alderman asked if all three machines would be tracked. Mr. Baker responded with an affirmative. Supervisor Alderman stated his concern about the mobility of the machines and asked Mr. Baker if mobility would be limited. Mr. Baker stated that mobility will be slightly limited with tracked excavators. However, the District recently purchased a new trailer which allows transfer of the tracked machines to District canals much faster. Vice President Whitworth stated that he believes the tracked excavators are much safer than wheeled excavators as they have a more stable foundation.

Vice President Whitworth made a motion to approve Item No. 7 on the Consent Agenda. Supervisor Goodlett seconded and it passed unanimously.

WORKSHOP

10. NONE

DISCUSSION AGENDA

11. LWDD Employee Safety Manual
Fran Cappellini, Legal Assistant – Re: Add Section VI.16 – Jewelry in the Workplace to the Employee Safety Manual

Ms. Cappellini stated that staff is proposing to add Section VI.16 to the District's Employee Manual regarding the wearing of jewelry, particularly for employees in the field. In addition, any office staff working in the field would be required to follow the same policy. Ms. Cappellini stated that she was asked by Mr. Brown to propose this modification and that she worked with the District's insurer (PGIT) and Chris Kittleson, the District's safety liaison, prepared and provided the policy to us. Supervisor Goodlett asked if our field staff were aware of the proposed policy change. Ms. Cappellini responded that Mr. Brown would be making an announcement to the supervisors after Board approval. Mr. Brown stated that this item was a follow-up item to the presentation recently made by Ms. Wheelihan on performance plans. He added that safety and well-being of our employees is of the utmost importance and that he wants staff to understand the importance of this issue. He concluded by stating that the recently revised performance plans of all staff include a category for safety and staff will be rated in the future on how they address safety in their jobs. President Raucher said change doesn't always mean that everybody agrees, but he thinks it's in the best interest for those who work at the District.

STAFF RECOMMENDATION MADE BY FRAN CAPPELLINI – Approve adding Section VI.16 to the District's Employee Safety Manual.

*Supervisor Goodlett made a motion to approve staff recommendation.
Vice President Whitworth seconded and it passed unanimously.*

12. FPL Cedar-Ranch 138 KV Poles Replacement
Joseph G. Walsh, Plan Reviewer – Re: Authorization for installation/replacement of six (6) transmission poles encroaching into the north 10' of the L-5 Canal right-of-way and nineteen (19) transmission poles and distribution poles and lines

Mr. Walsh provided an overview of the project. The project is located on the L-5 Canal right-of-way between the E-3 Canal east to Haverhill Road. FPL is proposing to remove existing stub poles, span guys and anchor encroachments and is also requesting a permit at no fee for 19 existing transmission/distribution poles and lines that were installed inside an FPL easement. The total number of poles within the L-5 Canal right-of-way will be 25 over a distance of 2,400 feet.

STAFF RECOMMENDATION MADE BY JOSEPH WALSH – Authorization to permit the installation of 6 transmission poles encroaching within the north 10 feet of the L-5 Canal right-of-way and to permit 19 existing transmission and distribution poles and associated lines. This approval is subject to all applicable permit fees and LWDD Permit Operating Policies.

Vice President Whitworth asked Mr. Walsh if representatives of FPL were present. Mr. Walsh responded with an affirmative. Vice President Whitworth stated that it seems the District deals with a different individual each time it does business with FPL. He further stated that it makes it very hard for staff to develop a relationship and asked what could be done to address this issue. Daniel Hronec of FPL responded that he would gather specifics and stated that they are part of a very large organization. Mr. Hronec said while he can't solve this issue personally, he will convey the message to his managers at FPL. Vice President Whitworth said this is a big problem for the District. Jean Salem of FPL said they also desire to have a good working relationship with the District and it is good to receive feedback. Ms. Salem completed her presentation by stating that this is an existing transmission line and FPL is simply replacing 6 wooden transmission poles with concrete poles to be more storm resilient. They do have an existing easement within the District's right-of-way and in replacing the poles, it was agreed that FPL would request a permit. Mr. Brown said he was very fortunate during his tenure at South Florida Water Management District to have a dedicated FPL liaison who coordinated internally with other areas of FPL and hoped that a similar process could be established at LWDD. Ms. Salem responded that she thought this proposal would be mutually beneficial. Supervisor Goodlett asked Mr. Brown if he has attempted to contact anyone at FPL for the purpose of working out differences. Mr. Brown answered that staff are in the process.

President Raucher called for a vote on the recommendation made by staff and it passed unanimously.

13. Office Depot Site and South Parcel – L-41, LWDD Project No. 06-8274P.01

Jose Gonzalez, Margarita Martinez Miguez and/or Keith Tickell, Boca 54 North LLC (Mark A. Perry, General Counsel) – Re: HUB Properties would like to review issues related to the Piping, Paving and Parking License Agreement executed with Boca 54 North LLC on 8/11/10 and its amendments.

Mr. Perry provided an overview of the project which is located at the intersection of Clint Moore Road and Military Trail, adjacent to the District's L-41 Canal on the southerly border of the Office Depot Headquarters Site. Previously, the District issued a Piping, Parking and Paving License Agreement (PPP) to Boca 54 North, which was ultimately assigned to the current owners (HUB Properties Trust). While the canal was piped, the additional improvements for parking and paving were not constructed. The proposed buyer of the property is in the due diligence process of purchasing the area adjacent to the District's L-41 Canal and requesting approval from the District to an assignment of the PPP agreement to the new owner. However, the location of the PPP area is located on the HUB property. Accordingly, staff recommends entering into a Tri-Party agreement to accommodate the needs of the existing property owners and the District since the pipe does currently exist. Jose Gonzalez with Florida East Coast Industries spoke on behalf of HUB Properties and Boca 54 Properties and said they are amenable to entering into discussions regarding the agreement. Mr. Gonzalez said they concur with Mr. Perry.

RECOMMENDATION MADE BY MARK A. PERRY – Require HUB Properties Trust and the proposed new owner of the property to execute a Tri-Party agreement with LWDD regarding the existing pipe and the installation of the paving for parking, landscaping, etc.

Supervisor Goodlett made a motion to approve.

Vice President Whitworth seconded and it passed unanimously.

14. Kathy Winters – Health Insurance Buy-Out

Mark A. Perry, General Counsel

Mr. Perry said there have been discussions and correspondence between Mrs. Winters and the Lake Worth Drainage District. Mrs. Winters is the surviving spouse of Bill Winters who had a contract with the District that provided health insurance for both he and Mrs. Winters. Because of the recent change from being self-insured to becoming fully insured by a health care provider, Ms. Winters is no longer eligible to be on the District's policy. Accordingly, staff is requesting a buy-out via lump sum payment in the amount of \$61,499.33. Mr. Perry stated that the District's insurance advisor provided three alternatives for coverage and staff selected a plan similar to that currently being offered by Florida Blue. The cost for the plan in South Carolina where Ms. Winters resides would be \$939 per month. In addition, the State of Florida provides retirees with a supplement for health insurance and Ms. Winters receives \$143.75 per month. Accordingly, that amount was deducted from the \$939 for a monthly total of \$795.25. Staff calculated that amount over a 58 month period (from October 2013 through July 2018) at which time Ms. Winters becomes eligible for Medicare for a total of \$46,124.50. Because of potential tax implications associated with the cash payout, staff is proposing to supplement the payout in the amount of \$15,374.83 for a total payout of \$61,499.33. Supervisor Goodlett asked Mr. Perry if this was acceptable to Mrs. Winters. Mr. Perry said that she has not responded. However, his preference is to send the check and at that point the District will have met its requirements. Additionally, Mr. Perry said the letter will explain how the amount was calculated.

RECOMMENDATION MADE BY MARK A. PERRY – asking for authorization to issue the check in the amount of \$61,499.33.

Supervisor Alderman made a motion to approve recommendation of our legal counsel.

Senior Vice President Haley seconded and it passed unanimously.

STAFF REPORTS

16. Board comment

17. Executive Director's Report

Mr. Brown said while it has historically been a practice of the District to provide a Holiday bonus to employees based on their merit review for the year, he will be changing the process. Specifically, Mr. Brown stated that he will be providing all employees with a holiday supplement at the same dollar amount. Funds for the supplement were approved in the Fiscal Year 2014 budget. Mr. Brown said that he will be dividing the total amount of money budgeted by the number of employees. He concluded that the supplement will be paid during the first week of December.

Mr. Brown said that the District last had a compensation study conducted in 2011 that salary ranges were adjusted at that time. Since it has been over two years, he is proposing to increase all salary ranges by 3% to coincide with the recent cost of living increase. Mr. Brown wanted the Board to be aware that there would be no monetary impact with this change. He further stated that the District has a large number of employees currently at their salary cap and this change will allow for salary supplements in the future. Supervisor Goodlett responded that we need to continue to monitor this area closely and not allow salaries to get out of hand.

a. Director of Operations & Maintenance

Mr. Baker reported that he is anticipating completion of Control Structure No. 3 by the end of the month.

Mr. Baker said that he will be removing the north gate at Control Structure 9. The gate will be sand blasted, repaired and reinstalled in January 2014.

Vice President Whitworth asked Mr. Baker why staff were not removing the tracks. Mr. Baker said the tracks are made of stainless steel and are embedded in the concrete. Vice President Whitworth asked why the District does not buy stainless steel gates and directed Mr. Baker to look into that option.

Mr. Baker said the L-11 Canal Rehabilitation Project from E-1 to Lyons Road is currently being sodded at specific locations and will most likely be completed by Thanksgiving.

Vice President Whitworth recommended against seeding at this time of year. Mr. Baker responded that only sod is being used.

Mr. Baker said the L-46 Canal Rehabilitation Project west of the E-2E Canal is approximately 50% complete with removal of vegetation and anticipates completion very soon.

b. Director of Administrative Services

Ms. Connolly said the District's Administrative Department has been very busy of late. District auditors have begun their review of documents and will be at District headquarters for the next week. The District has begun implementing electronic payments to vendors which will eliminate printing of checks in the future.

Ms. Connolly said the Records Department is continuing to work on the micro-filming project and are reorganizing the records area.

Ms. Connolly said IT has been very busy since October 1st with a number of initiatives underway. We have contracted with PC Land Tech to provide help desk support to employees; internet access has been upgraded and made more secure; and future plans are to have data backed up at an offsite location. In addition, security cameras are being installed, new wiring is being added, WiFi access is being enhanced and all exterior doors are being modified to allow access via badge. Lobby renovations are almost complete as are other renovations on the first floor. The front parking lot was recently resurfaced and new fencing was installed along the front of the property. Supervisor Goodlett said he is very

supportive of the efforts to increase the security, but wanted to make sure that we did not hamper access for our field staff. Melissa Wheelihan responded that employee ID badges will also access the gate. Vendors making deliveries will have the ability to call the receptionist and granted access remotely. Supervisor Goodlett also asked if staff had compared the cost in moving data to a “Cloud” versus increasing in-house server capacity. Juan Tobar, District IT Manager responded that we are comparing costs. Supervisor Alderman asked if we were installing security cameras at other on-site buildings, including the shop. Mr. Tobar responded that we are installing cameras throughout the compound. Mr. Brown said that security cameras are being installed in such a manner so that the entire boundary of the compound will be under surveillance. Vice President Whitworth asked if cameras were being placed on the pump stations. Mr. Brown said that the ultimate goal is to have cameras installed on all control structures. Mr. Brown also followed up to Mr. Goodlett’s earlier statement and stated that the plan will be to keep the gate open in the morning when the majority of District field staff are leaving for their job sites and then reopen later in the afternoon upon their return to headquarters.

c. Director of Engineering & Right-of-Way

Patrick Martin provided an update on the C-51 Reservoir Project. Bevin Beaudet with Palm Beach County is proposing to hire MDH America to conduct a cost analysis for the project with the dollar amount being \$150,000. Lake Worth Drainage District has been asked to partner in the cost analysis and contribute \$9,375. Mr. Martin said he personally thinks this is a good idea. He said that utilities are reluctant to move forward until other alternative methods have been evaluated. Mr. Martin said staff is asking the Board to consider contributing the \$9,375. President Raucher asked if there was a time-frame for initiating the analysis. Mr. Martin said the goal is to be underway by the beginning of next year. Supervisor Goodlett said he agrees with Mr. Martin and if we are not at the table, we likely will find ourselves in a position that is not good. Supervisor Whitworth said that he remains concerned about not having a stake in the project. Mr. Martin said that he also had that concern, but this is not part of the governance and finance.

Supervisor Goodlett made a motion to approve staff recommendation under the caveat that 80% of the people listed on the sheet participate financially. Mr. Goodlett said he doesn’t want to say if one person stays out that keeps us from participating but, if we don’t have \$125,000 worth of participation from other members listed on this sheet, regardless of who pays it for them, then he doesn’t think we should be in. So his motion is to approve the amount of \$9375.00 for the Lake Worth Drainage District assuming that the other participants are in to at least a level of \$125,000. Supervisor Alderman seconded and it passed unanimously.

d. District Counsel

Mr. Perry reported on the status of the bid package for the sale of District owned TDRs. We are scheduled to advertise November 17 with the bid package available November 18; mandatory pre-bid meeting will be on December 11; bid opening January 7, 2014 and Board approval scheduled for January 15, 2014.

Mr. Perry updated the Board on items that Attorney Rob Vargas is handling on behalf of the District. The Long case located on the E-3 Canal is a lawsuit for a complaint for a statutory way of necessity. It was settled in mediation and one of the last items to be completed was the certificate of completion which has been done. The only item that we are waiting for is \$8,530.00 to be paid to Lake Worth Drainage District and he is hoping to have payment in the next 30 days.

Mr. Perry said Rogers and Wilson located on the L-47 Canal is where the owners refused to allow us access to the right-of-way. A motion for summary judgment was filed Thursday and we are awaiting a date set by the court.

Mr. Perry said Podray which is located on the L-30 Canal had two motions for summary judgment heard Thursday, and we are awaiting the courts decision,

which will be in another week. Mr. Vargas is thinking the court will not rule either way, and we will have mediation scheduled for December 18, 2013.

Mr. Perry said a new item is where a gentleman erected a fence and a Tiki hut in the District's right-of-way on the L-47 Canal. He was notified on several occasions to remove them and has refused so the District filed suit against him.

There being no further business, the meeting adjourned at 9:40 A.M.

President – Harry Raucher

Supervisor – James M. Alderman

Sr. Vice President – Joyce Haley

Supervisor – C. David Goodlett

Vice President – John I. Whitworth, III

Recording Secretary – Joann M. Aylor