

**MINUTES OF A REGULAR MEETING OF  
THE BOARD OF SUPERVISORS OF THE  
LAKE WORTH DRAINAGE DISTRICT  
HELD AT THE DELRAY BEACH OFFICE ON  
SEPTEMBER 11, 2013 AT 8:30 A.M.**

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**There were present:**

Harry Raucher	Patrick Martin	Megan Hanney	Larry Portnoy
Joyce D. Haley	Joann Aylor	Thomas Barry	Andrew Gross
John I. Whitworth, III	Fran Cappellini	Deborah Harris	Kevin McGinley
C. David Goodlett	David Bends	Melissa Wheelihan	Anne Perry
James Alderman	Lena Owens	Robert Troy Lee	Vickie Demerski
Robert M. Brown	Shaughn Webb	Lany Altman	Bob Wise
Mark A. Perry	Jim Fandrey	Adam Johnson	Karen Hoyt
Michael D. Baker	Nicole Smith	Armando Pereda	Alice Finst
Carol W. Connolly			

1. Call to order by the President
2. Pledge of Allegiance
3. Board Agenda approval
4. Announcement – Notice of September 11, 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 Alderman 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. PUBLIC COMMENTS NOT SCHEDULED ON THE AGENDA – Limited to 5 minutes for each speaker**

None

**CONSENT AGENDA**

**7. LWDD Operating Policies Manual**

James W. Fandrey, Assistant Director of Engineering and Right-of-Way

1) Board approval to add to the fee schedule of the LWDD Operating Policies Manual a fee of \$250.00 to transfer an existing drainage permit from the construction phase of the permit to the operation phase of the permit by changing the name that the permit is made out to into the name of the entity that is to become the party that is responsible to see that the permit conditions are adhered to during the operation phase. (Chapter 2: Fees)

2) Board approval to add information to the Utility Installations Section (Section 3.11) of the LWDD Operating Policies Manual to authorize, by permit, utility agencies and companies access to LWDD's rights-of-way for the purpose of performing maintenance on their lines within, or adjacent to, the right-of-way

**8. Employment Contracts – Michael D. Baker, Carol W. Connolly, Patrick A. Martin  
Robert M. Brown, Executive Director – Re: Rescind employment contracts**

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

## WORKSHOP

9. Rich Budell, Director, Office of Agricultural Water Policy, Florida Department of Agriculture and Consumer Services

Mr. Budell provided the Board of Supervisors with an overview of the Florida Department of Agriculture and Consumer Services' role in a variety of water resource related management issues. Mr. Budell focused his presentation on the Department's Agricultural Source Control Program which includes the implementation of Best Management Practices (BMP). He also updated the Board on Numeric Nutrient Criteria issues, Water Supply Planning and arbitrating conflicts that emerge between agricultural landowners and the State's five Water Management District for certain activities that occur on agricultural lands. Supervisor Goodlett thanked Mr. Budell and asked that he pass on to Commissioner Putman the District's appreciation of his leadership on this very important issue. President Raucher and Mr. Brown both thanked Mr. Budell for taking time out of his busy schedule to travel from Tallahassee to the District and providing this well-received presentation. President Raucher also invited Rich to return and extended the offer to Commissioner Putnam as well.

## DISCUSSION AGENDA

10. Identification and assessment of potential TDR Parcels within the AG Reserve  
David Bends, Surveyor – Re: Staff is requesting Board direction to continue identifying potential TDR Parcels and start notifying the adjacent property owners

Vice President Whitworth and Supervisor Alderman both abstained from discussion and voting on this item and both completed a Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.

Mr. Bends gave a PowerPoint presentation on the identification and assessment of Transfer of Development Rights (TDRs) within the Ag Reserve. Mr. Bends explained that the District was approached by an adjacent landowner on the feasibility of the District selling TDRs and the District's legal counsel presented the concept to the Board on July 17, 2013 for their consideration. At that time, staff was directed by the Board to review the potentiality of selling TDRs and report back within sixty (60) days. District staff has identified approximately thirty parcels adjacent to conservation easements that could have TDRs available for sale. Seven of the parcels totaling 38.91 acres have been researched and analyzed. As a result of this request, staff and legal counsel have developed a policy for the sale of TDRs and proposed an addendum to the District's policy manual.

**STAFF RECOMMENDATION MADE BY DAVID BENDS** – 1) Staff requests approval of the policy for the identification and sale of TDRs as presented. 2) Staff requests authorization to prepare a Request For Bid (RFB) and advertise for the sale of TDRs for the seven identified parcels and, 3) staff requests authorization to continue identifying potential TDR parcels.

Supervisor Goodlett wanted to make sure that the Board was not being asked to finalize anything, but simply being asked by staff for approval to continue their review of potential parcels and then bring back a recommendation that could be reviewed and finalized for a vote. Attorney Mark Perry stated that staff is going one step further and is actually asking for authorization to prepare a Request For Bid package (RFB) and then advertise for sale. Supervisor Goodlett stated that it was his understanding that staff would be soliciting a bid and then offering first right of refusal to the adjacent property owner to match the high bid. Attorney Perry responded with an affirmative. Mr. Goodlett stated that after much thought, he did not prefer this option. Attorney Perry then suggested authorizing staff to proceed with the recommendation of preparing the bid package, but not authorizing advertisement until it is brought it back to the Board for approval.

*Supervisor Goodlett made a motion to approve staff recommendation requesting authorization to prepare a bid package in preparation of possibly marketing these TDRs*

*and ask that they bring the package back for final review and approval by this Board and to develop that recommendation into a policy.*

*President Raucher added staff's request to continue identifying potential TDR parcels as shown in green in the AG Reserve.*

Larry Portnoy with GL Homes stated that he was not aware of the proposed policy, but as an active buyer of development rights was inquiring if a minimum bid would be part of the policy, and if it is, how would the value be determined. Also, Mr. Portnoy stated that there would most likely be an issue with Palm Beach County relative to using LWDD TDRs in a development and as a potential buyer, GL Homes would be reluctant to close on the sale until the Palm Beach County Commission has approved a development order approving use of the TDRs. Regardless, if it is GL Homes or another potential buyer, he believed these two factors would come into play. Attorney Perry said if staff was to develop the recommended bid package and present it to the Board with more detail, then it would address those issues. Supervisor Goodlett said this is an important issue and that there is no need to expedite. He recommended that the District be very deliberate and that a better product would result in the end. Attorney Perry asked for clarification if Mr. Goodlett would repeat his motion.

*Supervisor Goodlett made a motion to provide staff with the authority to continue to identify parcels which may fit the proposed policy and to continue to develop this policy into an ultimate form of a bid package that will be brought back at a future workshop for additional discussion and subsequently to a Board meeting for final approval.*

*Senior Vice President Haley seconded and it passed unanimously.*

11. Organic Nutrition (f/k/a Walker's Preserve) – S-8, LWDD Project No. 04-5988P.06

Andrew M. Gross, Esq., Hunt & Gross, P.A. (Nicole Smith, Right-of-Way Coordinator II) – Re: Request approval for Organic Nutrition to purchase at fair market value a portion of the north-south S-8 Canal right-of-way from LWDD. Location: West side of State Road 7; south of Hypoluxo Road

Mr. Alderman abstained from all discussion and voting on this item and completed a Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.

Ms. Smith gave a PowerPoint presentation on this item stating that the project is located west of State Road 7 at the Hypoluxo Road Extension adjacent to the District's S-8 Canal. Organic Nutrition is the proposed buyer of the subject property formally known as Walker's Preserve and is requesting to purchase a portion of LWDD's north/south S-8 Canal right-of-way. This area was declared eligible for sale at the April 15, 2009 Board of Supervisors meeting. However, that approval has since expired.

**STAFF RECOMMENDATION MADE BY NICOLE SMITH** – to declare a portion of the LWDD's S-8 Canal right-of-way eligible for purchase (underlying fee) and to sell to the adjacent property owner for fair market value subject to LWDD retaining Transfer of Development Rights (TDRs) for the subject right-of-way. The approval will be subject to a signed and sealed sketch of description, certification of title, all applicable fees, canal cross-sections for the north drainage easement, conveyance of an easement to LWDD if needed and subject to LWDD Operating Policies.

Vice President Whitworth asked if the petitioner is agreeable to this. Andrew Gross, Esq., Hunt & Gross, P.A. representing the owners stated he had no objections. Ms. Smith stated that Attorney Perry did review the contract of sale and has approved the fair market value of \$18,761.00 per acre.

*Supervisor Goodlett made a motion to approve staff recommendation.*

*Senior Vice President Haley seconded and it passed unanimously.*

**RECESS**

**9:30 PUBLIC HEARING – 2014 PRELIMINARY OPERATING BUDGET**

Karen Hoyt stated that on August 14, 2013, the Board authorized the advertising of the Preliminary Budget and on August 26, 2013, the Preliminary Budget was advertised for Public Hearing. President Raucher asked if there were any members of the public who wished to speak at the Public Hearing. There were no speakers and President Raucher declared the Public Hearing portion of the meeting closed.

Ms. Hoyt presented the final budget for 2014 in accordance with District policy. Ms. Hoyt described minor changes made since presenting the preliminary budget at the August 2013 Board meeting. Specifically, she discussed the total budget amount including the reduced carry forward amount, a slight reduction in the insurance amount since the District will be going fully insured with a new health care provider and additional computer services needed to support IT upgrades. Ms. Hoyt stated that when the Self-Insurance Program was created, the District was required to set aside funds in separate bank accounts to insure that the District was capable to implement a self-insurance program. Currently, those accounts total approximately \$2.1 million dollars. These funds will be used for claims that are paid after September 30, 2013. Ms. Hoyt estimated that the run-out period on claims with UMR will take approximately 6 months. Ms. Hoyt said she will return to the Board at the March 2014 meeting and report on the balance remaining in these accounts and look for direction on how to invest these funds in the future.

Mr. Brown stated that a 3% cost of living adjustment was included for all District staff in the final FY14 budget presented by Ms. Hoyt. In addition, Mr. Brown proposed a 3% increase in the annual contract amount for District Counsel, as well as a 3% bonus for Attorney Perry's performance over the past year.

*Vice President Whitworth made a motion to approve Mr. Brown's recommendation of a one-time 3% bonus.  
Supervisor Alderman seconded and it passed unanimously.*

**STAFF RECOMMENDATION MADE BY KAREN HOYT** – approve the 2014 Operating Budget as presented with budget dollars of \$13,142,700.00.

*Vice President Whitworth made a motion to accept the budget as presented.  
Supervisor Alderman seconded and it passed unanimously.*

## **STAFF REPORTS**

### **12. Board comment**

Vice President Whitworth stated to the Board that there had not been a review or approved increase for Mr. Brown. Attorney Perry stated that Mr. Brown would be receiving the 3% cost of living increase. However, he further stated that what has not taken place is an actual review of his performance since arriving in February 2013. Supervisor Goodlett asked Attorney Perry as to how the Board should proceed in reviewing Mr. Brown's performance. Attorney Perry recommended that a separate workshop be scheduled prior to the October 2013 Board of Supervisors meeting to discuss the review process for Mr. Brown as well as discuss the TDR issue at the same time. President Raucher asked Mr. Brown to schedule a Workshop that would encompass these two items as well as any other items that staff thinks might benefit being on the agenda.

Supervisor Goodlett informed the Board that he had moved from his previous 400 South Cleary Road address to a new address located at 1608 Breakers West Boulevard. Supervisor Goodlett asked Attorney Perry to review the legislation to determine if he is outside the District and if he would need to resign. Attorney Perry stated that it is not necessary for him to resign and that he still qualifies for District 3 through 2015. District 3 requires that the supervisor who is running for election own and reside in that District. In Florida Statute Ch. 2009-258, Section 4. Board of Supervisors; elections - Paragraph #2 Single-Member Subdistrict Elections; Subdistrict Boundaries. Subparagraph 2. Qualifications – Elections for board members shall be nonpartisan. A candidate for the

office of supervisor of subdistrict 3, 4 or 5 shall at the time of election be a landowner and resident of the subdistrict for which he or she qualifies. Attorney Perry continued by

saying Mr. Goodlett does qualify for his term through 2015, so he may continue to serve as a supervisor until that time representing Subdistrict 3. Supervisor Goodlett asked Attorney Perry to review the document once again and to inform him of any future changes as he would like to remain transparent. Attorney Perry stated that he will review the legislation again, but feels very confident in his previous stated position on this issue.

### **13. Executive Director's Report**

Mr. Brown informed the Board that the annual employee meeting took place on August 29, 2013 and we had many representatives with our various insurance providers speaking on their behalf. Mr. Brown complimented staff for a successful event that was very well received by all.

Mr. Brown updated the Board on the potential purchase of the Palm Beach County Farm Bureau facility and stated that he had forwarded a letter to Mr. Roland Yee, President of the Farm Bureau and copied each Board member with the letter. In the letter, Mr. Brown stated that he requested to be placed on the next Farm Bureau Board meeting agenda and asked that he be allowed to give a presentation on the District's behalf. Mr. Brown further stated that he had not heard back from Mr. Yee since sending the letter.

#### **a. Director of Operations & Maintenance**

Michael Baker showed the Board a PowerPoint presentation of the completed L-30 Canal shoreline armoring project. Mr. Baker mentioned that staff is approximately halfway done with the L-4 Canal Rehabilitation Project. He stated that the L-14 Clearing Project has commenced and that the L-11 Clearing Project should be finished by the end of this month. Lastly, he stated that the next project to begin will be the L-46 Canal clearing.

#### **b. Director of Administrative Services**

Carol Connolly said she would like to add her thanks to Melissa Wheelihan, Karen Hoyt and all those who helped to put on the Employee Benefits Day it went very well. Ms. Connolly said she would also like to thank Mr. Brown for arranging the fresh-made ice cream.

Ms. Connolly said that staff are continuing to undertake IT assessments and will be going through some upgrades next year.

#### **c. Director of Engineering & Right-of-Way**

Patrick Martin said that staff has been doing more outreach with the local municipalities. They have an upcoming meeting with the Assistant County Engineer for Palm Beach County and he stated that this is a tribute to Mr. Brown coming on board and his skill set with management and his people skills.

Mr. Martin also mentioned that it is Shaughn Webb's last Board meeting. Mr. Webb will be retiring after 28 years at the District. Mr. Webb thanked the Board and said that he has enjoyed his stay at the District over the last 28 years. Mr. Webb said he would also like to thank Mr. Brown for what he has done in the last 6 months for this District with the morale changing 180 degrees. President Raucher said speaking for himself and he was sure for the rest of the Board that it has been a pleasure working with Shaughn and that he will be missed. Vice President Whitworth thanked Shaughn and said that he is one of the most dedicated guys that he knows and said Shaughn has helped him through the years.

#### **d. District Counsel**

Attorney Perry also praised Shaughn for all the great things he did while at the District and was happy to have developed a friendship through work. He went on

to say that he is really going to miss Shaughn as he has always been able to depend on him.

There being no further business, the meeting adjourned at 10:10 A.M.

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President – Harry Raucher

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Supervisor – James M. Alderman

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Sr. Vice President – Joyce Haley

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Supervisor – C. David Goodlett

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Vice President – John I. Whitworth, III

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Recording Secretary – Joann M. Aylor