

**MINUTES OF A REGULAR MEETING OF  
THE BOARD OF SUPERVISORS OF THE  
LAKE WORTH DRAINAGE DISTRICT  
HELD AT THE DELRAY BEACH OFFICE ON  
OCTOBER 16, 2013 AT 8:30 A.M.**

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**There were present:**

Harry Raucher	Anne Perry	Deborah Harris	Robert Troy Lee
John I. Whitworth, III	Lena Owens	Thomas Barry	Nader Salour
James Alderman	Fran Cappellini	Doug Gunther	Nicole Smith
C. David Goodlett	David Bends	Melissa Wheelihan	George Aylor, Jr.
Robert M. Brown	Shaughn Webb	Lany Altman	Jim Fandrey
Mark A. Perry	Joseph Walsh	Bob Wise	Greg Dudek
Carol W. Connolly	Megan Hanney	Armando Pereda	Grady Gardner
Patrick Martin	Karen Hoyt	Vickie Smith	Alice Finst
Joann M. Aylor			

Senior Vice President Joyce Haley was not present at the meeting.

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

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

4. Announcement – Notice of October 16, 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. Appointment of Officers:

Secretary – Robert M. Brown  
Assistant Secretary – Michael D. Baker  
District Engineer – Patrick A. Martin  
Treasurer – Karen Hoyt

*Vice President Whitworth made a motion to approve staff recommendation for the appointment of officers.  
Supervisor Alderman seconded and it passed unanimously.*

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

NONE

**CONSENT AGENDA**

8. NONE

## **WORKSHOP**

9. NONE

## **DISCUSSION AGENDA**

10. Equipment Lease Options  
Robert Troy Lee, Shop Supervisor

Mr. Lee gave a PowerPoint Presentation on leasing options for heavy equipment. The current proposal is to replace all three Liebherr excavators within the next three years. Mr. Lee informed the Board that the cost of maintaining the existing Liebherr excavators has increased significantly over the last 2 ½ years with approximately one-half of the total heavy equipment maintenance budget being allocated to the three Liebherr excavators. There has been considerable down-time on these machines awaiting needed parts. The closest Liebherr dealer is located in Bartow, Florida and parts are manufactured in Germany. The Fiscal Year 2014 budget includes replacement of the first excavator at \$270,000 with an additional \$608,000 needed cumulatively in Fiscal Years 2015 and 2016 to replace all three excavators. Mr. Lee stated that representatives of NORTRAX (a John Deere Company) indicated that leasing under an existing Florida Association of Counties Contract would be an extremely cost-effective alternative versus purchasing the excavators. The total purchase price of a John Deere 190DW Excavator is \$304,891. NORTRAX offers three lease options for the same John Deere 190DW Excavator: Lease Option 1 is a 36 month lease through John Deere Financial with 1,200 hours/year usage including the full machine coverage, 36 months @ \$3,634/month for a total lease amount of \$130,824 for the three years (the lease includes fair market value residual). Lease Option 2 is a 36 month lease through John Deere Financial with 1,500 hours/year usage including the full machine coverage, 36 months @ \$3,901/month for a total lease amount of \$140,436 for the three years (the lease includes fair market value residual). Lease Option 3 is a 36 month lease through John Deere Financial with 1,200 hours/year usage including full machine coverage and the preventative maintenance agreement, 36 months @ \$3,857.25/month for a total lease amount of \$138,861 for the three years (the lease includes fair market value residual). Mr. Lee discussed the following advantages to leasing: there is a John Deere dealer located within close proximity to the District in Riviera Beach, there is certainty on the excavator down-time which will be limited to a maximum of two days and staff will not require advanced training to conduct routine maintenance work. All major repairs will be performed by NORTRAX under warranty. Mr. Lee further stated that there is a significant savings by “piggybacking” the existing State of Florida contract, there is a quicker turnaround time for other vehicle maintenance work because there will be less time spent on major excavator repairs and leasing will allow the District the opportunity to allocate funds elsewhere.

**STAFF RECOMMENDATION MADE BY ROBERT TROY LEE** – enter into a three year lease agreement with John Deere Financial for three excavators to include 1,500 hours/year usage including the full machine coverage, 36 months @ \$3,901/month with fair market value residual for a total lease amount of \$140,436 per machine and a total amount of \$421,308 for all three machines.

Vice President Whitworth asked Mr. Lee what the plans were for the Liebherr machines. Mr. Lee replied that the District may sell them outright or NORTRAX may purchase them. He further stated that the District will request another company to provide an estimate on what they believe is the fair market value for each excavator. Vice President Whitworth asked who will do the welding on the buckets. Mr. Lee responded that the District will be allowed to weld the buckets. Greg Dudek representing NORTRAX stated that any modifications to “hard face” the bucket would be allowed as they will increase the life of the bucket. Supervisor Alderman asked if staff had a plan after three years to either purchase the machines or enter into a new lease. Mr. Lee responded that the plan after three years is to continue the leasing program as it is a less expensive option for the District. Supervisor Alderman questioned if the District goes above the negotiated amount of hours, will the District have to pay for the additional hours. Mr. Lee stated that is correct. Vice President Whitworth asked if the 12 month period is cumulative or is it a 36 month total lease plan. Mr. Dudek responded that it is a total 36 months. Supervisor Alderman questioned if we need three machines and asked Mr. Lee what our normal usage for the three machines has been in the past. Mr. Lee responded that it varies due to

down-time, but usually averages between 1200 and 1500 hours per year per machine. Mr. Gardner said that if the District has a breakdown, most of the time they can repair the machine. If they cannot repair the machine, then they will have another machine available to the District. Supervisor Alderman asked if there is breakdown and the machine is down for a week, will NORTRAX charge the District rental for the machine. Mr. Gardner stated that in that situation, probably not. He further stated that if a machine is down for a week or more and a warranty item, then NORTRAX would take care of the issue. Supervisor Alderman asked what that meant and whether NORTRAX would charge the District. Mr. Gardner replied no. Mr. Dudek said these machines are equipped with GPS and that John Deere has the capability to monitor the machines and know immediately if there is a problem. He concluded that it is very seldom that a machine is down for more than one or two days. John Deere's parts availability is approximately 80% over-the-counter with the ability to overnight anything else from Atlanta.

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

Supervisor Goodlett stated that if the down-time is due to negligence on the part of the District, then he would expect NORTRAX to charge the District for rental. President Raucher said he would presume that is in the contract. Mr. Lee responded with an affirmative.

*President Raucher called for a vote on the motion made by Supervisor Goodlett and seconded by Supervisor Alderman and it passed unanimously.*

11. The Fountains at Boca Center/Midtown – L-46, LWDD Project No. 07-8306P.01  
Nader Salour, V.P., CRVII Boca TC, LP (Nicole Smith, Right-of-Way Coordinator I) –  
Re: Request to seek approval for a one year extension to the previously approved Piping,  
Paving & Parking License Agreement. (Location: NW Quad of Town Center Road &  
Military Trail south side of the L-46 Canal)

Ms. Smith explained to the Board members that Midtown is located on the south side of the L-46 Canal which is south of Glades Road and along the west side of Military Trail. Ms. Smith stated that Mr. Salour was before the Board at the February 2012 meeting and received a two-year approval for a Piping, Paving and Parking License Agreement. The permitting process with the city of Boca Raton is taking longer than Mr. Salour had anticipated, so Mr. Salour is requesting a one-year extension on his previous approval prior to expiration in February 2014. The new expiration date will be February 2015.

**STAFF RECOMMENDATION MADE BY NICOLE SMITH** – Approve the one-year extension from February 2014 of the previously approved Piping, Paving and Parking License Agreement to February 2015 which will be subject to LWDD Operating Policies, sketch of description, certification of title, staff approval of all engineering, lighting, landscaping and site plans and all applicable fees.

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

12. Sale of Transfer of Development Rights (TDRs) – LWDD Project No. 12-7664P.02  
Mark A. Perry, Legal Counsel – (Location: LWDD ownership interests in canal rights-of-  
way within Ag Reserve)

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

President Raucher stated that with both Mr. Whitworth and Mr. Alderman abstaining from this item, the Board did not have a quorum. Attorney Mark Perry suggested postponing this item for 30 days. President Raucher postponed the item until the November 2013 Board of Supervisors meeting.

## **STAFF REPORTS**

## 16. Board comment

Vice President Whitworth stated that the issue of Board attendance is becoming a problem. He mentioned the previous Item, Sale of Transfer of Development Rights (TDRs), which is an important matter, yet the Board cannot act urgently on it which is a problem. He further stated that most Boards have an attendance policy such as three missed meetings, and you are removed. Supervisor Goodlett responded that Mrs. Haley has had health issues and it should be understood why she could not be in attendance. Mr. Goodlett then asked Mr. Perry is there any provision to allow the Board the opportunity to hold a special meeting telephonically. Attorney Perry responded that a telephonic meeting does not qualify as a quorum. Attorney Perry then asked the Board if they would be willing to schedule a special meeting. He added that by law, the District is required to give reasonable notice so a follow-up meeting scheduled within the next two to three days would be sufficient, provided it was noticed. He then recommended postponement of the remainder of the meeting and reconvening at a later date. Supervisor Goodlett suggested scheduling the meeting for Friday (October 18) at 10:30 AM. Vice President Whitworth asked if he and Mr. Alderman would be required to attend Friday's meeting. Attorney Perry responded that neither Mr. Alderman nor Mr. Whitworth would need to attend Friday's meeting as they have both previously abstained from discussing the TDR issue and completed the necessary form.

Attorney Perry then followed up with the Board on the absence issue and stated that it is best to confront the issue and speak to the Board member in question. Supervisor Goodlett commented that once elected, a Board member can conduct themselves as they wish. He further stated that he was not sure that the remainder of the Board could require attendance and participation since they are an elected body. He went on to say that it is incumbent upon each Board member to determine when they can no longer serve and make that known to the other members. Vice President Whitworth stated that he believed the Board could set policy on the issue and call for a vote. Supervisor Goodlett responded that he did not think anyone could tell him, for any reason that he cannot continue to serve his term until it expires, even if he never attended another meeting. President Raucher said that everyone understands what they are trying to accomplish and perhaps in the next workshop this issue could be discussed and legal counsel could provide some ideas, opinions and precedence's that have been set. Supervisor Alderman said our legal counsel needs to be directed to research the Board's options. President Raucher said that a motion is not needed and that he believes Attorney Perry understands what the Board is looking for and perhaps at our next workshop we can find a solution. He also said that it was a good idea to speak directly with the Board member. Attorney Perry responded that he would have the assignment completed by the next Board meeting.

Supervisor Alderman recognized Shaughn Webb in the audience and thanked him for his service to the Lake Worth Drainage District. Mr. Webb retired from the District after 28 years of service.

President Raucher stated that he was directed by the Board of Supervisors to discuss a merit increase for Mr. Brown. He added that since all Board members were extremely pleased with his performance, his recommendation would be to provide Mr. Brown with a 3% salary adjustment and a 3% lump sum payment, based upon the evaluations submitted by each Board member.

*Vice President Whitworth made a motion to approve President Raucher's recommendation. Supervisor Goodlett seconded and asked why a lump sum.*

Attorney Perry responded that existing law prevents giving a bonus, so it was decided to provide Mr. Brown a 6% merit increase with 3% in the form of a lump sum payment.

*President Raucher called for a vote on the motion made by Vice President Whitworth and seconded by Supervisor Goodlett and it passed unanimously.*

## 17. Executive Director's Report

Robert Brown welcomed Mr. Webb to the retiree world and thanked him for his District service.

Mr. Brown said that both he and Mr. Perry were extended an invitation by the Palm Beach County Farm Bureau to attend their recent Board meeting. They discussed the offer made recently by the District to purchase their property. While there was not a resolution reached, Mr. Brown said he informed the Farm Bureau Board that LWDD remains interested in the purchase of the facility. The Farm Bureau Board did acknowledge that we would be given priority, but that they are still reviewing their options. They did request a copy of the appraisal previously conducted by LWDD's appraiser and it was forwarded to their attention for review.

**a. Director of Operations & Maintenance**

Nothing

**b. Director of Administrative Services**

Carol Connolly said the District started the new fiscal year October 1<sup>st</sup> and so far so good. We are continuing with our office renovations. Mr. Brown said that we are refurbishing the lobby area and the contractor will be beginning the work on Friday, October 18th.

Supervisor Alderman asked where we were with the budget as far as what was spent in Fiscal Year 2013 and if there was carry over? Karen Hoyt responded that we have slightly over \$700,000 and she expected to have less than \$100,000 after payment of outstanding bills.

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

Patrick Martin gave a brief overview on activities recently undertaken by the Engineering Department. He is currently working on the District's Water Control Plan and has entered into negotiations with an engineering consulting firm. He stated that staff has developed a spend-down plan to upgrade District facilities, including telemetry. Mr. Martin said that Control Structure No. 16 located where the E-3 and the Hillsboro Canals meet will need to be rebuilt. Telemetry will be installed there as well.

Mr. Martin discussed the FEMA Program and the FEMA maps. There are a number of issues that he believes are incomplete and incorrect on the maps. The maps should be available in April of next year.

Mr. Martin added that he will be meeting today with the C-51 Governance and Finance Working Group in Broward County.

The Engineering Group is also working on a water quality monitoring program and has hired Cardno.

With regards to the Canal Rehabilitation Program, Mr. Martin said he would like to commend the tree and heavy equipment crews and all other employees involved in these projects. They have done an outstanding job. The L-4 Canal work has been completed, with the exception of one small structure to be removed. The L-11 Canal project is complete as well, with the exception of some fencing. Currently, we are working on the L-14 Canal and intend to commence with the L-46 Canal on or before October 23<sup>rd</sup> of this year.

**d. District Counsel**

Attorney Perry updated the Board on his current negotiations with Ms. Kathy Winters in reference to a buy-out of her health insurance coverage. Ms. Winters maintained insurance coverage as a result of a contract that her husband (Bill Winters) had with Lake Worth Drainage District which provided health insurance coverage for himself and his wife after his retirement. Because the District changed from a self-insurance plan to the new provider, coverage is not available

for Mrs. Winters. He added that he will be presenting a proposal to the Board for approval. Supervisor Goodlett ask Mr. Perry to explain to him why there is no available coverage. Attorney Perry explained that the District switched from a self-insured plan to an outside provider. Attorney Perry further stated that if we open the plan to Mrs. Winters, we would need to open the plan to other former District employees which could be a significant financial drain. Vice President Whitworth asked if the District would be better off buying a separate plan for Mrs. Winters and asked Mr. Perry if he had explored that option. Attorney Perry said he had not and that staff was recommending the buy-out option.

Supervisor Alderman asked Attorney Perry if the District has any lawsuits pending. Attorney Perry responded that there are some open cases. (Podray, Rogers and a new case on the L-47 where the property owner built a Tiki Hut on the District's right-of-way). Vice President Whitworth asked if the District had fee simple ownership on the L-47 Canal in this area. Attorney Perry responded that it is fee simple ownership. Supervisor Goodlett asked the status of the Rogers suit. Attorney Perry responded that a summary judgment was recently filed.

There being no further discussion this meeting is being postponed at 9:35 A.M until Friday, October 18, 2013 at 10:30 AM.

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President – Harry Raucher

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Absent  
Sr. Vice President – Joyce Haley

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Vice President – John I. Whitworth, III

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Supervisor – James M. Alderman

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Supervisor – C. David Goodlett

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Recording Secretary – Joann M. Aylor

**CONTINUATION OF OCTOBER 16, 2013  
REGULAR MEETING OF  
THE BOARD OF SUPERVISORS OF THE  
LAKE WORTH DRAINAGE DISTRICT  
HELD AT THE DELRAY BEACH OFFICE ON  
OCTOBER 18, 2013 AT 10:30 A.M.**

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**There were present:**

Harry Raucher	Mark A. Perry	Anne Perry
Joyce D. Haley	Joann Aylor	David Bends
C. David Goodlett	Jim Fandrey	Megan Hanney
Robert M. Brown	Nicole Smith	Alice Finst
Carol W. Connolly		

1. Meeting called to order by the President
  
2. Attorney Mark Perry informed the Board that the meeting was a continuation of the Board of Supervisors monthly meeting adjourned on October 16, 2013 and notice was published on the District's web-site as well as the District's Public Notices Bulletin Board. He also informed the Board that both Mr. Whitworth and Mr. Alderman would be abstaining as they each have a potential conflict of interest pertaining to the TDR issue (Mr. Alderman and Mr. Whitworth both completed the necessary Form 8B Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers.). President Raucher informed the Board that there was a quorum with Mr. Whitworth and Mr. Alderman not present.
  
3. Sale of Transfer of Development Rights (TDRs) – LWDD Project No. 12-7664P.02  
Mark A. Perry, Legal Counsel – (Location: LWDD ownership interests in canal rights-of-way within the Ag Reserve)

Attorney Perry provided an update to the Board as to what had taken place prior to the meeting. At the September 11, 2013 Board meeting, the Board directed staff to prepare options for the possibility of Lake Worth Drainage District selling Transfer of Development Rights (TDRs) derived from ownership of canal rights-of-ways within the Ag Reserve. The Ag Reserve is defined as the area from Hypoluxo Road to the north, Hillsboro Canal on the south, Conservation Area 1 to the west and the Florida Turnpike to the east. Within the defined area, staff has identified seven areas that have potential TDRs. Staff presented four options for the Board to consider. Option One required that an appraisal be prepared establishing the value of a TDR. The District would use the appraisal as a minimum bid and a bid package would be prepared and solicitation offered to the public. Adjacent property owners would be notified in writing of the District's intent. Option Two differed from the first option in that it allowed the adjacent property owner first right of refusal to match the highest responsive bid. Option Three required that an appraisal be prepared and then allowed the District to offer the TDR to the adjacent property owner at that amount. If the adjacent property owner did not opt to participate, then the District would go through the bidding process with the public and select the highest responsive bid. Option Four was to retain all TDRs and not pursue a solicitation. Attorney Perry informed the Board that staff was recommending Option One. Attorney Perry further stated that upon approval of an option, staff would be recommending approval of the Operating Policies as Chapter 5: Right-of-Way Ownership and Interest of the LWDD Operating Policies, which was modified to incorporate the Option One TDR process. Supervisor Goodlett asked if anywhere in the documentation does it state that Lake Worth Drainage District reserves the right to affectively cancel our interest in the program at any time for no reason, even if bids were received. Attorney Perry said that the standard form used by the District for the bid package does contain that paragraph. Attorney Perry further stated there have been questions raised as to what the District will be using the funds for generated by the TDR sale. He ended by stating that Mr. Brown has developed a draft spend-down plan outlining projects that could be constructed with funds generated by the TDR sale.

President Raucher said he would like to take a vote on the item before moving to Mr. Brown's presentation and asked if there was a motion to be made.

*Supervisor Goodlett made a motion to approve staff recommendation as it relates to the TDRs, which would be the approval of Option One.*

*Senior Vice President Haley seconded and it passed unanimously*

Attorney Perry stated that this is a two part presentation and would also like the Board to consider approving Chapter 5: Right-of-Way Ownership and Interest of the LWDD Operating Policies.

*Supervisor Goodlett made a motion to approve the Chapter 5: Right-of-Way Ownership and Interest of the LWDD Operating Policies.*

*Senior Vice President Haley seconded and it passed unanimously*

4. Robert M. Brown – Conceptual Spend-Down Plan

Mr. Brown began his presentation by stating that the District has been very conservative over the past few years in its expenditure of funds for making repairs to existing facilities and planning for new initiatives. He further stated that the existing headquarters facility is in dire need of repair and upgrades. He said that he and Mike Baker have been working on a spend-down plan that identifies key capital improvements needed, yet retains a sufficient amount in the District's Extraordinary Account to handle a catastrophic event. He stated that at the present time, the District has approximately \$16 million dollars in the Extraordinary Account and the sale of the TDRs could generate an additional three million dollars. Mr. Brown said that he desires to maintain at least \$10 million in the account at all times. He discussed the spend-down plan with the Board while showing a PowerPoint Presentation and briefly explained four initiatives. They are: 1. Automation of 10 primary control structures in an amount of \$1.4 million dollars; 2. Replacement of Control Structure No. 16 in an amount of \$950,000; 3. Canal Stabilization/Erosion Control in an amount of \$1.5 million dollars; and 4. Facility Upgrades in an amount of \$1.85 million dollars. Total for the upgrades was \$5.7 million dollars. Mr. Brown said that the District has identified projects upon which to spend the money. The question that we must ask ourselves is how much do we wish to maintain in the bank. Supervisor Goodlett said he believes the District needs to have reserves and cautioned Mr. Brown on how we spend the money. Senior Vice President Haley said it was her understanding that the expenditure of funds for any of these improvements would come out of the extraordinary account fund and not the approved budget. Mr. Brown said his recommendation is to continue to refine the cost estimate for each project. He further stated that each project would come back to the Board at a future date for approval and that he plans to use extraordinary funds for all projects identified in his presentation.

*Supervisor Goodlett made a motion to receive and file the report.*

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

There being no further business, the meeting adjourned at 10:55 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