



**MINUTES OF A REGULAR MEETING OF
THE BOARD OF SUPERVISORS OF
LAKE WORTH DRAINAGE DISTRICT
HELD AT THE DELRAY BEACH OFFICE ON
JUNE 13, 2018 AT 8:30 A.M.**

Board Members Present:

James M. Alderman Steve Bedner (via phone) Harry Raucher
John I. Whitworth, III Jeffrey P. Phipps, Sr.

1. Call to Order

President James M. Alderman called the meeting to order at 8:30 A.M.

2. Pledge of Allegiance

Mr. Phipps led the Pledge of Allegiance.

3. Retirement Recognition - Robert M. Brown, Executive Director

- **Joann Aylor, Senior Administrative Assistant**

Mr. Brown shared that Joann Aylor was retiring after more than 35 years of service with the District. Mr. Brown and the Board thanked Joann for her service and presented her with an engraved memento in recognition of her service.

4. Agenda Revisions – Robert M. Brown, Executive Director

Mr. Brown announced that Agenda Item 14 is postponed.

5. Abstentions by Board Members from items on the Agenda

There were no abstentions.

6. General Public Comment

Alice Finst, resident, complimented Nicole Smith for her helpful assistance.

CONSENT

7. Board comment or request to pull items from Consent Agenda

8. Approval of minutes, check register and financial statement for the previous month

9. Board Vote on Consent Agenda

A motion was made by Supervisor Raucher to approve the Consent Agenda, seconded by Supervisor Phipps, and approved unanimously.

DISCUSSION

10. L-49 Canal Rehabilitation Project adjacent to Sabal Palm Lake in Boca Raton (Project #A195; 16-9977P.03) – Robert M. Brown, Executive Director

Mr. Strowd presented background information on the District's canal rehabilitation program. He stated that the District owns approximately 49 miles of canals within the City of Boca Raton's boundaries. As part of the canal rehabilitation program, 3.09 miles have been completed and 4.66 miles are in progress or nearing completion. There is an additional 11.57 miles scheduled for completion within the next 2 years. The District and the City of Boca Raton do not endorse or authorize encroachments on public rights-of-way. The District and the City entered into an Interlocal Agreement in 2003 for the purpose of coordination and communication with the City and residents for preservation of "native plant communities and vegetation buffers."

On January 18, 2018, the District notified the City of Boca Raton of the upcoming project on the L-49 Canal. The initial notification to residents was on March 1, 2018. The survey crew began staking the project on March 8 and a site inspection was completed with City of Boca Raton staff on March 15. The project began on April 30 with the exception of the 14 properties adjacent to Sabal Palm Lake. On May 25, 2018, a second notification was delivered that identified specific encroachments that needed to be removed. The City mayor requested that the District delay the removal of these encroachments until Board discussion.

Mr. Brown stated that in consideration of the properties adjacent to Sabal Palm Lake, staff recommended to quit claim any remaining chancery interest with conveyance of an easement to LWDD from ¼ Section, issue a variance to authorize encroachments within 20' from ¼ Section (first 10 ft native vegetation and fencing authorized, second 10 ft fencing only authorized and require a minimum of 20 ft unobstructed right-of-way remaining for District access. The proposed recommendation would be subject to applicable right-of-way permit fees including a quit claim fee of \$250, permit application fee (variance) of \$500, one-time use fee of \$20/LF with a minimum of \$1500, and an annual use fee of \$4/LF; minimum \$500.

Christine Perretta (987 SW 7th Street) stated that she is a 20-year neighborhood resident and requested a written statement of work be provided regarding the type and size of equipment to be used for the project. She also stated that she does not believe this area provides the hydrologic function of a canal, and offered pro-bono services to residents to conduct a hydrologic study. She requested that the City conduct the maintenance on these lake properties.

Mr. Strowd stated the District could prepare a scope of work and seismic monitoring will be conducted as needed for major earthwork; although, he stated he did not expect that major earthwork would be necessary for the project. Mr. Whitworth and President Alderman recommended the District conduct the monitoring.

Linda Slate (1012 SW 7th Street) stated that she is a 20-year resident and shared concerns regarding impacts to property during the project. Ms. Slate stated she would like the City to maintain the north side of the lake.

Karen Krumholtz (900 SW 11th Court) stated that she has not experienced any flooding and stated that exceptions exist and requested the District's consideration to maintain the current quality of life on the lakefront.

Alex Platt (1068 SW 7th Court) stated he supported his neighbors and is not in favor of the project. He also asked for clarification about the minimum 20' of unencumbered right-of-way and asked for specific language to clarify the amount of property required.

Mike Jurus (1026 SW 7th Street) stated he met with District staff on May 22 and indicated his disagreement with the lake being a canal. Mr. Jurus suggested that the piped culvert located to the east be removed and returned to its original state.

Jane Jurus (1026 SW 7th Street) stated that District staff came to her fence and told her that the lot line runs 10' outside her bedroom window. She stated she lives on a lake not a canal, and requested the culvert be removed. She stated that the lake has white caps and erodes the bank during storms. Ms. Jurus stated that the City of Boca has been designated as the Tree City for the last four decades. She stated that the Royal Palm on her property is on the threatened and protected list. She shared concerns with herbicides being sprayed to maintain the canal.

Jim Wulf (1106 SW 7th Street) stated that when he bought the property forty years ago and there was no public record of LWDD ownership or Chancery Case filed. He stated that he did not agree with the area being referred to as a canal. He stated that the residents did not have any representation on the Board and said the City should take over the maintenance. He stated he believed there is a conflict with the existing utility easements.

Mr. Strowd stated that he is not aware as to when the culvert was installed. It is the maximum size culvert that the District installs. Mr. Strowd stated the culvert was installed to maintain the control elevation for the canal. If removed, it could erode the canal and affect stage controls. It also helps to keep salt water from moving west. It could be replaced with a broad-crested weir, but they are expensive structures. Both structures are maintenance issues.

Jon McPhail (1082 SW 7th Street) shared his concerns regarding the project and stated that he has never seen his property flood. He requested that the District discontinue the project. Mr. McPhail asked for clarification of his property line with regard to his pool deck.

Susan Spence (1030 SW 1st Street) has lived on the L-48 Canal for 40 years. She inquired which board members have visited the canal rehabilitation sites and shared her disapproval with removal of the vegetation. Ms. Spence stated that each situation is different and should be evaluated separately.

Peter Breton from Breton, Lynch, Eubanks and Suarez-Murias, P.A. stated that he represents the Wulf, Jurus and Miller properties. Mr. Breton stated that the property owners were unaware of this easement until they received a letter earlier this year.

He stated that there was lack of notice regarding the Chancery Case to owners who purchased prior to 1990. He asked that LWDD postpone the project to provide enough time to meet with staff and work out details. Mr. Breton stated that Mr. Miller is agreeable for the District to remove the ficus tree.

William Miller (1150 SW 7th Street) stated that he likes the ficus tree, but understands that the tree is a high risk of falling. He stated that he is agreeable to the District removing it.

Mr. Brown stated that the District will install new gates at both 9th Street and 12th Street.

Mayor Scott Singer thanked board and staff for taking the time to listen to the concerns of a few neighbors. These are all unique situations and need specific consideration. The City of Boca Raton is willing to work together and coordinate efforts with LWDD.

Gina Ligorio-King (1041 SW 7th Street) asked if the City of Boca is willing to take over maintenance of the area. Mayor Singer responded that the City of Boca Raton will discuss it.

Mr. Brown presented that the project will be on hold until after the July 11 Board meeting. During that time, District staff will continue discussions with the affected property owners.

A motion was made by Supervisor Whitworth to postpone the project until the next Board Meeting except for Mr. Miller's ficus tree, seconded by Supervisor Raucher and approved unanimously.

11. Approval to terminate existing Encroachment License Agreement (ORB 14819, PG 1557) and issue a Right-of-Way Permit for encroachments. Location: L-49 Canal, between I-95 and SW 12th Avenue; South side of the L-49 Canal (Project #02-7006P.01) – Nicole Smith, Right-of-Way Permit Coordinator

Ms. Smith presented that the Rizza residence is located at 1285 SW 8th Street, which is on the south side of the L-49 Canal, east of I-95 and west of SW 12th Avenue. On February 18, 2003, LWDD issued an Encroachment License Agreement (ORB 14819/1557) for a shed, patio, wood fence, retaining wall and planters. The agreement, under condition 6, states that if any encroachments fall into a state of disrepair, the agreement shall be terminated, and the property owner is required to remove the encroachments. Due to the L-49 Canal Rehabilitation project vegetation was recently removed. The existing agreement will be terminated, and a right-of-way permit will be issued authorizing the retaining wall, planters and patio pad. In addition, this permit will terminate upon sale of the property or transfer of ownership; all existing encroachments are to be removed at that time.

Staff recommended approval to terminate the existing Encroachment License Agreement, and issue a Right-of-Way Permit for the retaining wall, planters and patio pads, as shown on the exhibit attached to the existing agreement, within the L-49 Canal Right-of-Way subject to removal of the fence, removal of vegetation (completed) and removal of the shed (completed).

A motion was made by Supervisor Whitworth to approve to terminate the existing Encroachment License Agreement, seconded by Supervisor Raucher and approved unanimously.

A motion was made by Supervisor Whitworth to approve to issue a Right-of-Way Permit for the retaining wall, planters and patio pads, as shown on the exhibit attached to the existing agreement, within the L-49 Canal Right-of-Way, seconded by Vice-President Phipps and approved unanimously.

12. Approval to modify the existing encroachment license agreement with Palm Beach County Palm Tran and transfer to a Right-of-Way Permit (Project #97-2632P.03). Location: East side of the E-4 Canal, west of Congress Avenue and north of Atlantic Avenue – Nicole Smith, Right-of-Way Permit Coordinator

Ms. Smith stated that in 1996, the Board of Supervisors approved the existing Encroachment License Agreement (ORB9504/239). Palm Tran is being reviewed through the City of Delray Beach's site plan approval process. The applicant has agreed to transfer the existing Encroachment License Agreement to a Right-of-Way Permit.

Staff recommended the approval to convert the existing Encroachment License Agreement to a Right-of-Way Permit subject to LWDD Operating Policies, conditions of Right-of-Way Permit which will supersede the conditions in the existing agreement, and Palm Beach County conveying an exclusive easement and an access easement to LWDD for the E-4 Canal.

A motion was made by Supervisor Raucher to approve staff recommendation, seconded by Vice President Phipps and approved unanimously.

13. Approval to terminate existing Piping, Paving and Parking License Agreement (ORB 7906, PG 1166), revoke the existing fence permit and issue a Quit Claim Deed over the piped portion of the Fritz Ditch to the adjacent property owner. Location: North of 2nd Avenue; East side of the E-4 Canal (93-4487F.01) – Nicole Smith, Right-of-Way Permit Coordinator

Ms. Smith presented that the right-of-way for the Fritz Ditch consists of 13 deeds. The Board of Supervisors approved the existing Piping, Paving, and Parking License Agreement in 1993 (ORB7906/1166) with Palm Beach Community College. The current owner is Palm Club Investments, LLC and they own both sides of the piped portion of the Fritz Ditch. Palm Beach Club Investments, LLC is represented by Oren D. Lieber, Esq.

The piped portion of the Fritz Ditch is at the far east end of the canal. LWDD will retain the open channel section to the west of the piped portion of the Fritz Ditch.

Staff recommended the approval to terminate the existing Piping, Paving, and Parking License Agreement, terminate the existing Fence Permit and Quit-Claim the piped portion of the Fritz Ditch to Palm Club Investments, LLC subject to conditions

added to Quit Claim Deed to accommodate off-site drainage, \$250 for legal and recording fees.

A motion was made by Supervisor Whitworth to approve staff recommendation, seconded by Supervisor Raucher and approved unanimously.

- 14. Approval of appraisal for 2.15 acres of L-44 Canal right-of-way. Location: South 40 feet of the south side of the L-44 canal right-of-way, immediately west of the E-2W Canal (Project #RI-18-0028) – David Bends, Project Surveyor**

This item was postponed.

- 15. Approval of sale of surplus right-of way along the north side of the L-24 canal for the extension of a right turn lane. Location: Southwest quadrant of Boynton Beach Blvd and Acme Dairy Road (Project #16-12R.37) – David Bends, Project Surveyor**

Mr. Bends stated that this request was made by Palm Beach County (PBC) to purchase a portion of LWDD's fee simple right-of-way along the north side of the L-24 Canal. Additional right-of-way to accommodate future turn lanes was acquired for the L-24 Canal when Boynton Beach Boulevard was widened in 1993. The proposed surplus canal right-of-way will be utilized to extend the eastbound right turn onto southbound Acme Dairy Road. PBC will construct the extension of the turn lane and then convey the right-of-way to FDOT after the project has been constructed.

Staff recommended approval to declare a portion of the L-24 Canal Right-of-Way surplus, to approve Fair Market Value based on the submitted appraisal of \$7.15/Sq. Ft. or \$311,651/acre (area of 4,892 Sq. Ft. X \$7.15/Sq. Ft. = \$35,000.00 subject to sketch of descriptions, Certification of Title, legal and recording fees, approval of all plans by LWDD staff and District Operating Policies.

A motion was made by Supervisor Whitworth to approve to declare a portion of the L-24 Canal Right-of-Way surplus, seconded by Supervisor Raucher and approved unanimously.

A motion was made by Supervisor Whitworth to approve Fair Market Value based on the submitted appraisal of \$7.15/ Sq. Ft. or \$311,651/acre (Area of 4,892 Sq. Ft. X \$7.15/Sq. Ft. = \$35,000.00), seconded by Supervisor Raucher and approved unanimously.

- 16. Resolution No. 18-01 -- Approval of request for annexation and authorization to enter into a service agreement with Petroleum Reality, I LLC for property located at 1255 W. Palmetto Park Road, Boca Raton. Location: L-48 Canal, northwest corner of Palmetto Park Road and NW 12th Avenue (Project #17-8327P.05) – Anne Perry, Right-of-Way Specialist**

Ms. Perry stated that this project is going through the City of Boca Raton for redevelopment of an existing gas station originally constructed in 1998 by Knight

Energy Services. The outparcel is currently owned by Petroleum Realty I, LLC. The site (.69 acre) drains into the access road to the south of the gas station, then drains into Palmetto Park Road and ultimately into the L-48 Canal. Other portions of the shopping center, adjacent to this site, have annexed into LWDD's boundaries. As redevelopment occurs over time, the entire shopping center is expected to annex (20+ acres).

Staff recommended the approval of Resolution 18-01 authorizing annexation of the subject property into LWDD's jurisdictional boundaries during the next recodification by LWDD, and approval to enter into a Service Agreement with Petroleum Realty I, LLC to provide services prior to recodification subject to all applicable Operating Policies and fees, which have already been paid.

A motion was made by Supervisor Whitworth to approve the Resolution 18-01 authorizing annexation of the subject property into LWDD's jurisdictional boundaries during the next recodification by LWDD, seconded by Supervisor Raucher and approved unanimously.

A motion was made by Supervisor Raucher to approve to enter into a Service Agreement with Petroleum Realty I, LLC to provide services prior to recodification, seconded by Supervisor Whitworth and approved unanimously.

STAFF REPORTS

17. Executive Director's Report

Mr. Brown stated that he and Mr. Strowd will be meeting with a hydrogeologist to discuss items required for the District's water use permit renewal.

Director of Operations and Maintenance

Mr. LasCasas updated the Board on the progress of the Canal Rehabilitation Program. Over the past 12 months, the District has cleared a total of 26.36 miles of vegetation on canal rights-of-way (54.34 miles from October 2015 to current): LWDD – 12.97 miles; Contractor – 9.97 miles; Developer – 3.42 miles.

Director of Administrative Services

Ms. Walker had nothing additional to report.

Director of Finance

Ms. Hoyt presented that she will be presenting the preliminary budget next month.

District Counsel

Mr. Perry presented that on March 27, 1972, LWDD acquired a canal reservation interest in a 40' strip on the north side of the L-44 Canal from the Central & Southern Florida Flood Control District recorded in ORB 1994, Page 1615. The Engle Group acquired fee simple ownership of lands for a development parcel on the north side

of the L-44 Canal known as Brentwood of Boca on July 16, 1987. The land includes said 40' strip encumbered by the canal reservation by Warranty Deed recorded in ORB 5355, Page 1449.

LWDD conveyed a quit-claim deed to The Engle Group for the development parcel on the north side of the L-44 Canal that included the 40' canal reservation in ORB 5492, Page 26 on November 24, 1987. There is no record of an easement conveyed to LWDD. Historically, the 40' strip on the north side has been recognized as LWDD's L-44 Canal right-of-way and is currently being used for maintenance and access. LWDD recognizes the lack of evidence of real estate interest in the 40' strip on the north side and the need to address the issue.

Staff recommended the approval to pursue quiet title for 40' strip on the north side of L-44 Canal, as well as, use the services of Jones, Foster, Johnston & Stubbs, P.A. (Rob Vargas) for litigation assistance.

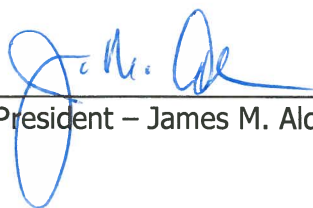
A motion was made by Supervisor Raucher to approve staff recommendation, seconded by Vice-President Phipps, and approved unanimously.

15. Board Comment


Mr. Raucher inquired about the status of the letter to Kelly Tractor regarding equipment repairs and reimbursement of costs. Mr. Brown requested Mr. Perry send a final demand letter requesting reimbursement for repairs and rental, and take ownership back of defective equipment. President Alderman inquired on the timeframe to send the letter and requested it be completed and sent as soon as possible.

16. Adjourn

There being no further business, the meeting adjourned at 11:37 A.M.



President – James M. Alderman



Recording Secretary – Melissa Wheelihan