



**MINUTES OF A REGULAR MEETING OF
THE BOARD OF SUPERVISORS OF
LAKE WORTH DRAINAGE DISTRICT
HELD AT THE DELRAY BEACH OFFICE ON
August 16, 2023 AT 8:30 A.M.**

Board Members Present:

John I. Whitworth, III
Jeffrey Phipps, Sr.

James M. Alderman
Stephen Bedner

Carrie P. Hill

1. Call to Order

President Stephen Bedner called the meeting to order at 8:30 A.M.

2. Pledge of Allegiance

Mr. Whitworth led the Pledge of Allegiance.

3. Retirement Recognition – Doug Gunther, Lead Field Representative

After 32 years of service with the District, Mr. Doug Gunther will be retiring at the end of this month. Mr. Strowd emphasized the valuable key roles Doug has been responsible for during his tenure and expressed that his absence will be greatly felt. In a gesture of gratitude, Mr. Strowd and the Board extended their thanks to Mr. Gunther for his dedicated service and presented him with an engraved LWDD memento box.

4. Agenda Revisions – Tommy Strowd, Executive Director

There were no agenda revisions.

5. Abstentions by Board Members from Items on the Agenda

There were no abstentions by board members.

6. General Public Comment (limited to 5 minutes)

There was no general public comment.

CONSENT

- 7. Approval of minutes, check register and financial statement for the previous month**
- 8. Approval to surplus and dispose of designated items – Karen Hoyt, Director of Finance & Administration**
- 9. Approval of employee health benefit renewals for FY2024 – Melissa Skora, Human Resources Administrator**
- 10. Approval to release chancery interest to E & M Realty Corporation in exchange for an exclusive easement. Location: 1699-1705 N. Congress Avenue; north side of the L-2 Canal and east side of the E-3½-8 Canal. (Project #RI-23-0021) – David Bends, Right-of-Way Interest Supervisor**

President Bedner asked if there were any comments or requests to pull items from the Consent Agenda. There were none.

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

DISCUSSION

- 11. Resolution 2023-01 - Approval of Final Operating Budget for the Fiscal Year ending September 30, 2024 - Karen Hoyt, Director of Finance & Administration**

Ms. Hoyt presented the final operating budget for Fiscal Year 2024 totaling \$16,494,000. She stated at the time the Preliminary Budget totaling \$16,914,000 was advertised, the renewal quotes for the property casualty insurance had not been received. Subsequently, quotes were obtained indicating a substantial 24% increase in premiums, totaling approximately \$83,000. In response, staff revisited options with the broker and increased deductibles to reduce costs by \$21,000. In addition, the budget was amended to reflect removal of an end dump (articulating) truck given the Board's previous approval to purchase the equipment in FY23 to take advantage of reduced costs. The overall net budget decrease totaled \$420,000.

Staff recommended approval of Resolution 23-01 adopting the budget for the Fiscal Year Ending September 30, 2024, totaling \$16,494,000 with a non-ad valorem assessment rate of \$49.50, in addition to the reallocation of the \$3.50 assessment rate from capital improvements to operations to fund additional costs associated with maintaining 180 miles of cleared canal rights-of-way.

A copy of the final budget worksheet and Resolution 23-01 are attached hereto as part of the meeting record.

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

12. Approval to issue a right-of-way permit variance to Sabal Pine Condominium for a portion of the existing asphalt pathway to remain within the E-4 Canal right-of-way. Location: East side of the E-4 Canal, south of Linton Boulevard. (Project #RW-23-0227) – Nicole Smith, Permit Supervisor

Ms. Smith informed the board that in February 2022, a notice of violation letter was issued regarding encroaching facilities and a broken irrigation connection within the District's right-of-way. Subsequently, between April 2022 and April 2023, a series of correspondences and meetings took place between LWDD and Sabal Pine Homeowner's Association to discuss the unresolved issues.

Ms. Smith stated in June 2022, an application was submitted for the repair of an existing irrigation connection. The applicant was advised that addressing the encroachments was a prerequisite for permit issuance. In June 2023, a variance application was received, specifically addressing a portion of the pathway that was intended to remain within the District's right-of-way.

Ms. Smith reported that as of August 2023, Sabal Palm Condominium had removed encroaching AC valves. The removal/relocation of encroaching light poles is pending a survey requirement stipulated by the City of Boca. It was noted that the trenching and rewiring necessary for light pole relocation had already been completed outside of LWDD's right-of-way. A 90-day extension has been requested due to a pending permit from the City of Boca.

Ms. Smith shared recent images of the encroachments being moved from the LWDD right-of-way.

Staff recommend approval to issue a right-of-way permit to Sabal Pine Condominium Part 1, 2, 3, & 4 for the existing 390' asphalt pathway within the east right-of-way of the E-4 Canal subject to: removal of all light poles and above ground structures; removal of the existing asphalt pathway and appurtenances at the time of replacement; certificate of insurance listing LWDD as additional insured with \$1 million minimum liability coverage; LWDD operating policies; and permit fees including a \$500 application fee and \$500 reoccurring annual fee commencing one year from permit issuance, adjusted every (5) years by the compounded CPI.

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

Staff also recommended approval to issue a right-of-way permit to Sabal Pine South Condominium for the existing asphalt pathway within the east right-of-way of the E-4 Canal subject to: removal of all light poles and above ground structures; removal of the existing asphalt pathway and appurtenances at the time of replacement; certificate of insurance listing LWDD as additional insured with \$1 million minimum liability coverage; LWDD operating policies; and permit fees including a \$500 application fee and \$500 reoccurring annual fee commencing one year from permit issuance, adjusted every (5) years by the compounded CPI.

A motion was made by Vice President Hill to approve staff recommendation on consent agenda, seconded by Supervisor Phipps and approved unanimously.

13. Authorize Counsel to file an Amicus Brief to represent the interests of Lake Worth Drainage District in the case United States Sugar Corporation, et. al. v. United States Army Corps of Engineers, et. al., 23-11683, United States Court of Appeals for the Eleventh Circuit – Tommy Strowd, Executive Director

Mr. Strowd stated the basis of the ongoing litigation between agricultural interests in the Everglades Agricultural Area (EAA) – Plaintiffs, and the U.S Army Corps of Engineers (USACE) – Defendant. The litigation centers on the water control operations of the USACE’s EAA A2 Reservoir and the associated Stormwater Treatment Areas (STA). Mr. Strowd stated the intention of the proposed Amicus Brief is to provide the court with additional information/perspectives that the court can consider based on LWDD’s water supply relationship to Lake Okeechobee and the EAA A2 Reservoir and STA. He explained the issue surrounding this case revolves around the USACE's proposed operating plan, which considers both the STA and the Reservoir operating together upon completion of construction. There are two main points of contention. First, the plaintiffs argue that the USACE used the incorrect baseline condition in their hydrologic analysis supporting the project, opting for the current Lake Okeechobee Regulation Schedule (LORS08), which the Plaintiff’s claim has significant impacts on water supply interests. They assert that the prior Lake Okeechobee regulation schedule should have been used instead, as required in the Comprehensive Everglades Restoration Plan (CERP) congressional authorization (WRDA 2000). Second, the operations plan considers the STA and the Reservoir as a single unit, with the STA relying on the Reservoir for supplemental water during dry periods. The STA construction is nearing completion. However, since the Reservoir's construction was recently initiated and is currently ongoing, there is an expected extended period when the completed STA will need supplemental water to support the growth and continued existence of emergent wetland vegetation within the facility but won't have access to the Reservoir as the intended water source. In such situations, the STA will have no alternative but to source water from Lake Okeechobee, thereby reducing water supply availability in the Lake, and negatively affecting all of the Lake's water uses. LWDD’s interest in this matter lies in our role as a secondary water user associated with Lake Okeechobee. When we extract water from Water Conservation Area No. 1 (WCA-1), both the Corps and the South Florida Water Management District (SFWMD) compensate for the water we've withdrawn by sourcing it from Lake Okeechobee. Consequently, we have a vested interest in this case. Furthermore, beyond the potential water-related impacts, our involvement safeguards our ability to participate in potential future litigation concerning the new Lake Okeechobee regulation schedule, which is slated for approval in the near future. This positions us to make our case if such litigation arises.

Mr. Strowd explained that LWDD is not party to the current litigation, and our role does not involve appearing in court or providing testimony unless requested by the judge in relation to the Amicus Brief. However, we align ourselves with the agricultural interests south of the lake, particularly regarding their concerns about water supply and the management of Lake Okeechobee.

Staff recommended approval to authorize Counsel to file an Amicus Brief to represent the interests of Lake Worth Drainage District in the case United States Sugar Corporation, et. al. v. United States Army Corps of Engineers, et. al., 23-11683, United States Court of Appeals for the Eleventh Circuit

Supervisor Whitworth inquired regarding who was writing the brief on behalf of the District and the associated expenses. Mr. Strowd stated Manson Bolves Donaldson Tanner is submitting the Amicus Brief and it is expected to cost approximately \$25,000.

A motion was made by Senior Vice President Alderman to approve staff recommendation, seconded by Supervisor Whitworth and approved unanimously.

STAFF REPORTS

14. Canal Rehabilitation Program Update – Megan Hoffman, Vegetation Management Section Leader

Ms. Hoffman provided an update on the progress of the Canal Rehabilitation Program. Since October 2015, the District has cleared more than 166.5 miles of vegetation on its canal rights-of-way: LWDD – 84.3 miles; contractor – 76.2 miles; developer – 6.0 miles. There are 6.9 miles remaining of 174.7 miles; 12.1 miles have been completed within the past 12 months.

15. Executive Director's Report

Mr. Strowd provided an update on Lake Okeechobee operations and stated the water level is currently 15.3 ft. Sr. Vice President Alderman shared his concerns with the operation schedule.

Mr. LasCasas provided a final project update on the Control Structure 9 refurbishment project stating that staff has achieved substantial project completion. Major changes and improvements include the installation of new variable frequency drive (VFD) submersible pumps, installation of SCADA, demolition and relocation of pump/control houses and installation of drop curbs at entrances. Replacement of the radial gates and final SCADA integration is expected to be completed by October 2023.

Ms. Walker reported that the District agreed to resolve the litigation with the Juruses regarding the property on Sabal Palm Lake adjacent to the L-49 Canal. She noted that last year the Board had agreed to release its interest in all the lakefront properties. Although staff did not agree with the prior court rulings, it was decided to settle and bring the litigation to an end to reduce the risk and costs associated with further protracted litigation. District Counsel, Mark Perry, stated given that the District is already relinquishing the rights to the lakefront properties, the potential downside of continuing litigation outweighed any potential benefit. Therefore, the prevailing sentiment was that settling the matter and moving on was the best course of action.

12. District Counsel's Report

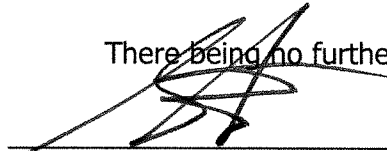
No additional items to report.

13. Board Reports & Comment

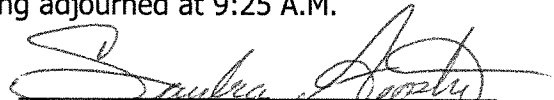
Sr. Vice President Alderman inquired regarding Palm Beach County's Green Cay Wetlands Project-Phase II and associated discharge connections to an LWDD canal. Mr. Strowd explained that in an extreme weather event it could discharge into the canal, but the water is treated with reverse osmosis and there would be no water quality impact.

14. Adjourn

There being no further business, the meeting adjourned at 9:25 A.M.



President – Stephen Bedner



Recording Secretary – Sandra Acosta