

Ref: #11-2009

LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT
REGULAR MEETING - MINUTES
JULY 16, 2009

1. CALL TO ORDER

Chairman Whalen called the Regular Meeting of July 18, 2009 to order at 7:03 P.M.

2. ADMINISTRATIVE MATTERS

A. ROLL CALL

Chairman Whalen called the roll and the following Board Members were in attendance:

Mr. Whalen
Mr. Boggie
Mr. Silverman
Mr. Thompson
Mr. Ellis

Staff Members in attendance were Dr. Arrington, Ms. Williams, Mr. Vaughn, Mr. Brienza, Mr. Howard and Mr. Yerkes.

Consultants in attendance were Mr. Muniz from Hazen and Sawyer, Mr. Shenkman from DeSantis, Gaskill, Ms. Mathews and Ms. McLeod from Mathews Consulting, Mr. Lardieri from Boyle Engineering, Ms. Studley and Mr. Gehring from the Gehring Group, Mr. Pole from Brian Pole's Lawn Service, Mr. Hanseter from Engenuity Group, and Mr. Lynch from Arcadis.

B. PREVIOUS MEETING MINUTES

The Minutes of the Regular Meeting of June 18, 2009 were presented for approval and the following motion was made.

MOTION: Made by Mr. Boggie, Seconded by Mr. Thompson,
Passed Unanimously.

“ That the Governing Board approve the minutes of the June 18, 2009 Regular Meeting as submitted. “

C. ADDITIONS & DELETIONS TO THE AGENDA

Chairman Whalen suggested discussing correspondence received by the Board Members the previous day under Item 11, Comments from the Board. The Board Members agreed.

3. COMMENTS FROM THE PUBLIC

Chairman Whalen acknowledged residents from the Jupiter Highlands area who are scheduled for Low Pressure Sewer installation, and invited members of the Public to address the Board. Chairman Whalen requested speakers limit their address to three minutes.

Ms. Barbara Melit requested the cost summary for the project be reviewed. Chairman Whalen stated that a mailing went out earlier in the day inviting all residents to an Open House meeting on August 4, 2009 from 4 pm to 6:30 pm. Ms. Melit stated her belief that the connection charges and assessment fees would be paid for by the Federal Agency "Rural Utilities Service, Department of Agriculture". Ms. Melit supplied material supporting her belief to the Board. Ms. Melit further believed that grant monies were available from South Florida Water Management District and the Environmental Protection Agency and asked why the District hadn't applied for these funds.

Mr. George Shelton inquired about any soil testing of the Jupiter Highlands area that showed any contamination leaching into the river. Chairman Whalen reiterated the studies done showing the need for sewers and stated the studies would be available at the August 4, 2009 Open House meeting and they are currently available on our website. Mr. Shelton stated sewers would not benefit Jupiter Highlands. Mr. Ellis stated a study specific to the Jupiter Highlands area would be expensive, and the costs of additional studies would increase the assessment paid by the Jupiter Highland residents.

Ms. Michele Brown read the following letter from fellow resident Kevin Eldred:

I reside at 5700 Old Orange Road which intersects with Loxahatchee River Road. Our subdivision is in Loxahatchee Gardens.

Your current plan is to install sewers in our neighborhood. I would like you to reconsider this action until a later date.

In September of 2008, I was laid off. I have been unable to find employment during this recession. Sewer installation and the subsequent charges would be financially difficult at this time. Please reconsider.

Ms. Brown stated the only way District Counsel said the project could be stopped was under an economic crisis and asked the Board for a definition of economic crisis.

Ms. June Heitzeberg disputed the studies as to density, water tables and elevation and expressed her concern with a sewer system that requires electricity being an issue during extended power outages.

Mr. Paul DeMasi asked if we had received his emails. Dr. Arrington stated that we had not and asked Mr. DeMasi to supply his email address to us. Mr. DeMasi stated his email address. Mr. DeMasi asked why developers paid less than the estimated cost for Jupiter Highlands. Chairman Whalen explained that developers construct the lines themselves. Mr. DeMasi asked if the District had a deadline we had to meet to get Jupiter Highlands sewer. Chairman Whalen stated the sewer costs would only increase if the project were delayed.

Mr. Doug Hobbs stated his concern that Jupiter Highland residents had to pay for something that benefits all people who use the river. Mr. Hobbs believes that all Palm Beach County residents should be assessed.

Mr. Ellis suggested the residents lobby the county to reinstate their program to assist homeowners who need financial assistance. Dr. Arrington suggested the residents contact Commissioner Karen Marcus.

Chairman Whalen thanked the public for their input.

4. LOXAHATCHEE WATERSHED STATUS

Mr. Howard reviewed his watershed status report, highlighting the \$4,000,000 NOAA stimulus grant won by the District in partnership with Martin County to survey, map and restore oyster habitat in the St. Lucie estuary and the northwest fork of the Loxahatchee River.

5. CONSENT AGENDA

Chairman Whalen announced that all items listed with an asterisk (*) are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Board Member or member of the Public so requests, in which event the item may be removed from the general order of business and considered in its normal sequence on the agenda. Dr. Arrington requested Item 7B be removed from the consent agenda because Mr. Brian Pole wanted to address the Board on the issue. There was no objection from the Board.

MOTION: Made by Mr. Thompson, Seconded by Mr. Silverman,
Passed Unanimously.

“ THAT THE GOVERNING BOARD approve Consent Agenda Items 7A and 7C of July 18, 2009. “

6. OLD BUSINESS.

A. NEIGHBORHOOD SEWERING FINANCING

Chairman Whalen suggested holding this item in abeyance until Mr. Raymond arrived. No objections were made.

B. BUDGET FISCAL YEAR 2009-2010

Chairman Whalen suggested deferring this item until Monday, July 20, 2009. No objections were made.

7. NEW BUSINESS

*A. HEALTH INSURANCE

The following motion was approved as a result of the Board adoption of the Consent Agenda (please refer to item 5).

MOTION: “THAT THE DISTRICT GOVERNING BOARD authorize the Executive Director to appoint the Gehring Group as the Agent of Record (for health, dental, life, and disability insurance) for the District. ”

B. LAWN MAINTENANCE CONTRACT

Mr. Pole of Brian Pole’s Lawn Service (BPLS) presented the Board Members with his presentation to retain the Districts lawn service contract. Mr. Pole reviewed his presentation and requested the contract be awarded to his firm. Mr. Ray Spear of Grassroots Corp. (GC) made a presentation to the Board and requested the contract be awarded to his firm. Chairman Whalen stated he was comfortable with the motion to accept the lowest bid from Grassroots Corp. Mr. Ellis and Mr. Silverman stated their preference to continue with BPLS due to their excellent prior service.

MOTION: Made by Mr. Ellis, Seconded by Mr. Silverman,
Failed by a 2 – 3 vote, with Chairman Whalen, Mr. Boggie and Mr. Thompson opposing.

“THAT THE DISTRICT GOVERNING BOARD authorize award of contract to Brian Pole’s Lawn Service in accordance with their bid proposal for Landscape Maintenance Services dated June 15, 2009, 2009 in the amount of \$3,440 per month.”

Mr. Boggie and Mr. Ellis stated their belief that the District should accept the lowest bid. Chairman Whalen inquired of Mr. Shenkman what legal complications, if any, would occur if the lowest competent bid were not accepted. Mr. Shenkman explained that the Board could base their decision on factors other than cost. Chairman Whalen believed the District should stay with the bid process currently in place.

MOTION: Made by Mr. Boggie, Seconded by Mr. Thompson,
Passed by a 3 – 2 vote, with Mr. Ellis and Mr. Silverman opposing.

“THAT THE DISTRICT GOVERNING BOARD authorize award of contract to The Grassroots Corporation in accordance with their bid proposal for Landscape Maintenance Services dated June 15, 2009, 2009 in the amount of \$3,310 per month.”

Mr. Ellis inquired if his vote could be changed to yes. Mr. Shenkman said no, but his request would be reflected in the minutes.

*C. CHANGE ORDERS TO CURRENT CONTRACTS

The following motion was approved as a result of the Board adoption of the Consent Agenda (please refer to item 5).

MOTION: “THAT THE DISTRICT GOVERNING BOARD authorize execution of Change Order #3 to the contract with Chaz Equipment Inc. for the IQ Pump Station Contract, an no change to the Contract Price or time. ”

8. STAFF AND ADVISOR'S REPORTS

A. WORKSHOP DISCUSSION – DISTRICT BOUNDARIES

Mr. Shenkman reviewed the legal and historic background for the Jupiter Farms Shopping Center package plant. Dr. Arrington stated the clearest option to recover the Districts costs for installing sewer lines to Western Indiantown Road would be via subregional transmission system line charges. Mr. Silverman inquired if this would result in 100% cost recovery and Dr. Arrington said yes, it would. Mr. Ellis supports extending the sewer lines but stated the residents of Jupiter Farms may be concerned that the larger residential lots may be sewerred and we would have to assure them that only non-residential areas would be involved. Mr. Silverman stated that the package plant currently in use is in a very deteriorated condition.

Chairman Whalen discussed the potential size of the line to be installed and stated that future planning, including the potential for sewers for the RV Park, county schools, and other commercial ventures on Indiantown needed to be considered. Chairman Whalen stated that when the District boundaries were established in 1971, the Jupiter Farms area did not have the volume of non-residential properties it has now and that are proposed for the future.

Mr. Ellis wants to further discuss sizing the lines for potential growth to eliminate the expense of reconstructing them down the road versus the added costs of larger lines to the initial users.

Mr. Shenkman stated that legislation could be drafted to expand District boundaries after approaching the various other agencies involved.

Mr. Hobbs stated that two parallel 12” lines could be extended westward to accommodate future growth.

Dr. Arrington reviewed the short-term issue of the Jupiter Farms Shopping Center requiring a sewerred solution and the long-term issue of extending the District’s boundary. Dr. Arrington will have staff identify non-residential parcels in the Jupiter Farms area.

Mr. Boggie stated that our goal is to protect the river and that all parcels, regardless of zoning, that are found to be detrimental to the river should be considered. Mr. Silverman would like staff to provide the Board with the variables involved. Chairman Whalen requested staff determine the difference in costs involved for only extending the line for the shopping center versus installing a larger capacity line. Mr. Silverman requested that the District keep the property owners that would be affected up to date on the discussions.

B. FAU - SCRIPPS UPDATE

Dr. Arrington gave an overview of his meeting with Ms. LaRocque and Mr. Lukasik, and Mr. Shenkman's progress on drafting the Campus Development Agreement.

Chairman Whalen suggested a five-minute break between 9:12 and 9:23 p.m. The Board agreed.

Chairman Whalen polled the Board and determined the reports below would be considered self-explanatory unless further discussion was requested. Mr. Silverman wanted to discuss Item 8F and Mr. Boggie wanted to discuss the dashboard under Item 8J.

C. TREATMENT PLANT PUNCH LIST – STATUS UPDATE

Report stood as written.

D. SWA BIOSOLIDS PELITIZATION FACILITY – STATUS UPDATE

Report stood as written.

E. NEIGHBORHOOD SEWERING – STATUS UPDATE

Report stood as written.

F. BUSCH WILDLIFE SANCTUARY – STATUS UPDATE

Dr. Arrington gave a status update. Mr. Silverman expressed his desire to have BWS better acknowledge role of the District. Dr. Arrington will draft a letter to BWS requesting better acknowledgement.

G. ENGINEER'S REPORTS

Report stood as written.

H. LEGAL COUNSEL'S REPORT

Report stood as written.

I. PUBLIC INFORMATION REPORT

Report stood as written.

J. DIRECTOR'S REPORTS

Dr. Arrington reviewed his dashboard report, reviewed its effectiveness, and asked for suggested improvements.

9. FUTURE BUSINESS

10. FRIENDS OF THE LOXAHATCHEE RIVER

6. OLD BUSINESS

A. NEIGHBORHOOD SEWERING FINANCING (RESOLUTION 2009-09)

Dr. Arrington explained that the previous commitment from Suntrust could not be accepted because of a rate increase. Bond Counsel suggested a full RFP process which resulted in a better offer from Bank of America. Dr. Arrington reviewed the correspondence, Resolution and bond and loan exhibits. Mr. Shenkman reviewed Mr. Raymond's analysis of the proposals received. Chairman Whalen stated by Board's desire to have these funds tracked on a monthly basis.

MOTION: Made by Mr. Thompson, Seconded by Mr. Ellis,
Passed unanimously.

" THAT THE DISTRICT GOVERNING BOARD accept the Bank of America Loan Agreement to purchase the District's \$3,600,000 Bond at the interest rate of 4.53%, hereby approve Resolution 2009-09, and authorize the Chairman, Secretary and Executive Director to sign the loan and bond documents effective as of July 17, 2009. "

11. COMMENTS FROM THE BOARD

Chairman Whalen verified that all Board Members received an anonymous letter alleging illegal dumping on the plant site. Mr. Thompson stated that persons who do not identify themselves may be harboring a vendetta and are difficult to take seriously, but due to the severe nature of the complaint, a comprehensive and detailed investigation is required. Mr. Thompson verified that these allegations were not brought to management's attention. Mr. Boggie, Mr. Ellis, Mr. Silverman and Chairman Whalen all agreed that an investigation be launched as soon as possible.

The Board Members concurred that the Department of Environmental Protection (DEP) be brought in immediately, so an independent investigation and assessment can be obtained and further agreed to exclude from any aspect of the investigation any personnel mentioned in the allegation. The Board decided that no person named in the allegation letter, nor any person in the department allegedly involved be a part of the investigation and to have the Director of Water Resources, Mr. Howard, act as liaison between the DEP and the District.

Chairman Whalen verified that the DEP had already be contacted and asked to investigate and that the DEP would be at the plant site tomorrow.

Mr. Vaughn explained his understanding of the events of the day. Mr. Vaughn supplied the Board with trip tickets and invoices from the two septic hauling companies involved which showed proper disposal and refuting the claim of illegal dumping. Mr. Vaughn further explained that all safety procedures were followed and no employee was put at risk at any time.

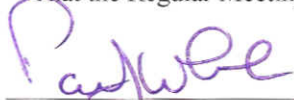
Mr. Thompson left at 10:50 p.m.

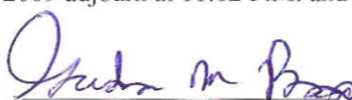
Chairman Whalen asked Mr. Shenkman to review the recommended steps the District should take to assist in the investigation.

12. ADJOURNMENT

MOTION: Made by Mr. Boggie, Seconded by Mr. Silverman,
Passed Unanimously.

" That the Regular Meeting of July 18, 2009 adjourn at 11:12 P.M. and reconvene at 6:30 P.M. on July 20, 2009. "


BOARD CHAIRMAN


BOARD SECRETARY


RECORDING SECRETARY