

Ref: #21-2009

LOXAHATCHEE RIVER ENVIRONMENTAL CONTROL DISTRICT  
REGULAR MEETING - MINUTES  
DECEMBER 17, 2009

1. CALL TO ORDER

Chairman Whalen called the Regular Meeting of December 17, 2009 to order at 7:00 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 arrived at 7:35 P.M.

Staff Members in attendance were Dr. Arrington, Mr. Yerkes, Mr. DiCarlo, Mr. Sabin, Mr. Brienza, Ms. Williams and Mr. Vaughn. Mr. Howard arrived at 7:32 P.M. and Mr. Dent arrived at 7:37 P.M.

Consultants in attendance were Mr. Muniz from Hazen and Sawyer, Mr. Shenkman from DeSantis, Gaskill, Ms. Travis from Mathews Consulting, Mr. Lardieri from AECOM, Mr. Wodraska, Mr. Mayfield from Tequesta Agency, Mr. Brobst from WGI, and Mr. Wertepny from Mock Roos. Mr. Hitzig from BWS was also in attendance.

B. PREVIOUS MEETING MINUTES

The Minutes of the Public Hearing and Regular Meeting of November 19, 2009 were presented for approval and after modifications were made, the following motion was made.

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

“ That the Governing Board approve the minutes of the November 19, 2009 Public Hearing and Regular Meeting as amended. “

### C. ADDITIONS & DELETIONS TO THE AGENDA

Chairman Whalen suggested Item 6A be moved to after Item 7I. No objections were made.

### 3. COMMENTS FROM THE PUBLIC

No comments were received.

### 4. DEDICATION OF EXPANDED WASTEWATER TREATMENT PLANT

Dr. Arrington presented a bronze plaque to be attached to the plant expansion and recognized the hard work and dedication of plant employees and Hazen & Sawyer in completing the expansion and upgrade of the plant.

### 5. LOXAHATCHEE WATERSHED STATUS

Dr. Arrington requested this item be postponed until the arrival of Mr. Dent. Dr. Arrington stated that this would be Mr. Dent's last Board Meeting after more than 30 years of service to the District. Dr. Arrington presented Mr. George DiCarlo to the Board as the new Director of Engineering.

### 6. OLD BUSINESS

#### B. WESTERN INDIANTOWN ROAD SUBREGIONAL COLLECTION FACILITIES

Mr. Yerkes reviewed his memorandum on design engineering services for the project.

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

“ THAT THE GOVERNING BOARD authorize execution of a Design Phase services contract with Mock Roos & Associates in an amount not to exceed \$48,900.00 “

### 7. NEW BUSINESS

#### A. ALLEGRO ASSISTED LIVING – DEVELOPER AGREEMENT DISCUSSION

Mr. Shenkman reviewed the Public Records request made by the project developer and stated that the Board would be acting in a quasi-judicial capacity and suggested the petitioners be sworn in prior to giving testimony. No objections were made.

Mr. Shenkman swore participants in with the following oath, "Do you swear to tell the whole truth, and nothing but the truth?" Participants replied affirmatively.

Mr. Nason introduced himself as legal counsel for Allegro and distributed a handout, which covered his presentation. Mr. Nason reviewed his findings on water usage comparisons among assisted living facilities compared to other dwellings and stated his belief that the District's Developer Agreement would overcharge his client based on these findings.

Mr. Hearing of Cotleur & Hearing requested the Board consider adjusting the equivalent connections (ec's) to more accurately reflect expected wastewater flows based on his findings of water use at similar facilities. Mr. Hearing reviewed comparable facilities water usage and requested that the Board consider these lower usage rates in determining a lower rate for Allegro.

Mr. Miller of Hallmark Senior Living requested of the Board a fair understanding of the project and an appropriate decision regarding the number of ec's included in the Developer Agreement.

Mr. Nason asked the Board to apply a more appropriate methodology to calculate ec's.

Dr. Arrington reviewed staff's calculations of ec's which were based on the number of various types of units in the proposed facility and stated staff's desire to make a fair determination. Dr. Arrington stated that the independent living units contain dishwashers as well as clothes washers and would more fairly compare to a residential unit with regard to potential water consumption and reviewed the water usage of Mangrove Bay, which was higher than the water usage put forth by Allegro. Dr. Arrington stated his belief that with regard to assisted living units, staff and the developer were in agreement.

Mr. Hearing stated that the Mangrove Bay units were separately metered, 1600 s.f. living area units with a garage.

The Board reviewed the Allegro presentation and discussed various aspects with the participants. Chairman Whalen noted Dr. Arrington's memo and noted that staff has already worked with the developer to lower the estimated ec's from 144.5 to 115.8, which has already reduced fees. The Board instructed staff to revise the Developer Agreement using 0.575 ec's under the District's rules rather than 0.4 ec's per assisted living unit if the Developer Agreement is not executed prior to the January 2010 Board Meeting.

A break was taken between 7:55 P.M. and 7:58 P.M.

Chairman Whalen acknowledged the arrival of Mr. Ellis, Mr. Dent and Mr. Howard.

## 5. LOXAHATCHEE WATERSHED STATUS

Chairman Whalen presented Mr. Dent to the Board to give his final presentation as to the status of the Loxahatchee River.

Mr. Dent presented the history and the current status of the river, the District's stewardship efforts, and recommended additional areas be incorporated into the District's boundaries to further protect this important community asset.

Chairman Whalen thanked Mr. Dent for his 37 years of service, his leadership and expertise, and his eloquence in relaying his passion for the river and the community.

## 7. NEW BUSINESS (continued)

### B. PUBLIC OFFICIALS LIABILITY INSURANCE

Mr. Mayfield with the Tequesta Agency presented the details of the Public Officials and Liability Insurance purchased in November, 2009.

### C. FOCUS GROUPS – DISCUSSION OF FINDINGS

Chairman Whalen introduced Mr. Wodraska and reviewed his impressive resumé. Mr. Wodraska reviewed the findings of the Focus Group Study and discussed potential next steps for the District in implementing initiatives to further protect the river.

Mr. Wodraska presented five key findings:

1. Develop and implement a program of scientific studies.
2. Develop and implement a Septic Tank Maintenance program.
3. Develop an outreach program on storm water management.
4. Develop and implement a program to augment the flows to the Northwest fork of the Loxahatchee River.
5. Develop and implement a youth involvement program.

The Board commented on the findings, discussed the future of the District's role and thanked Mr. Wodraska for his efforts.

### D. N. RIVERSIDE DRIVE PH II–FINAL ASSESSMENT ROLL (RESOLUTION 2009-15)

Chairman Whalen asked if the Board Members were familiar with New Business Items 7D through 7I and wanted to make the Motions suggested in each item. The Board stated their familiarity and agreed to make the suggested motions.

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

“THAT THE GOVERNING BOARD approve Resolution 2009-15 adopting the North Riverside Drive Phase II Final Assessment Roll.”

E. PENNOCK POINT INTERIOR-NOTICE OF INTENT TO ASSESS  
(RESOLUTION 2009-16)

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

“THAT THE GOVERNING BOARD approve Resolution 2009-16, the Notice of Intent to Assess, the Pending Lien Notice, and the Exhibits for the Pennock Point Interior Assessment Area.”

F. WATERWAY VILLAGE PHASE V-AWARD OF CONSTRUCTION CONTRACT

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

“ THAT THE DISTRICT GOVERNING BOARD authorize award of contract to Blazer Construction Industries, Inc. for the Waterway Village Low Pressure Sewer System-Phase V in an amount not to exceed \$35,820.00 in accordance with their bid dated December 3, 2009. “

G. JUPITER HIGHLANDS PUMP PURCHASE-AWARD OF CONTRACT

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

“ THAT THE DISTRICT GOVERNING BOARD authorize award of contract to Southeastern Pumps for the provision of 137 simplex low-pressure pumping units and panels in an amount not to exceed \$404,150.00, in accordance with their proposal of April 3, 2009. “

H. GIFT POLICY-DISCUSSION

Dr. Arrington noted the revised Acceptance of Gifts Policy memorandum at the Board dais. Dr. Arrington noted the addition of relatives of employees being included in the Policy and suggested a value cap of \$100.00.

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

“ THAT THE DISTRICT GOVERNING BOARD approve the revised Acceptance of Gifts Policy with the threshold amount for reporting of gifts to be \$100.00, as presented on December 17, 2009. “

## I. CHANGE ORDERS TO CURRENT CONTRACTS

There were no change orders presented for Board consideration.

A break was taken from 9:18 P.M. to 9:27 P.M.

### 6. OLD BUSINESS (continued)

#### A. EXECUTIVE DIRECTOR – ANNUAL REVIEW

Chairman Whalen reviewed his memorandum outlining the components of the Executive Director's annual review and the Motion options listed at the end of the memorandum.

Mr. Silverman noted Dr. Arrington's excellent leadership regarding the rate study and savings to the District on health and liability insurances.

Chairman Whalen complemented Dr. Arrington on finalizing the last elements of the plant expansion.

Mr. Silverman noted Dr. Arrington's fine performance in guiding the Board through neighborhood sewerage issues.

Chairman Whalen noted Dr. Arrington's success in implementing the GIS program and moving the District forward in the technology arena.

Chairman Whalen complemented Dr. Arrington's efforts in Water Resources. Mr. Silverman complemented Dr. Arrington on the oyster reef restoration project.

The Board rated Dr. Arrington's overall performance as between "exceeds expectations" and "exceptional" and discussed Dr. Arrington's merit recognition salary increase to become effective January 1, 2010.

MOTION: Made by Mr. Boggie, No Second,  
Motion failed.

" THAT THE GOVERNING BOARD, following this performance review, have the Executive Director receive a 5 percent merit recognition salary increase, a \$5,000.00 net bonus and a five percent one-time salary adjustment based on a salary comparison study. "

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

" THAT THE GOVERNING BOARD, following this performance review, have the Executive Director receive a 5 percent merit recognition salary increase, a \$5,000.00 bonus and a five percent one-time salary adjustment based on a salary comparison study. "

## 8. REPORTS

### A. WORKSHOP – CONTINUATION OF DISCUSSION

No workshop items were discussed. This item will be removed from the agenda.

### B. FAU - SCRIPPS UPDATE

Dr. Arrington summarized Mr. Yerkes report on the status of the Campus Development Agreement (CDA) and noted the final milestones will be the receipt of the executed CDA and Developer Agreement, and payment of \$730,752.00.

### C. TREATMENT PLANT PUNCH LIST – STATUS UPDATE

Dr. Arrington reviewed the Hazen & Sawyer follow up on closure items.

### D. SWA BIOSOLIDS PELITIZATION FACILITY – STATUS UPDATE

Dr. Arrington reviewed the update.

### E. NEIGHORHOOD SEWERING – STATUS UPDATE

Mr. Yerkes reviewed the status of current and upcoming projects. Dr. Arrington recognized the extensive work done by Mr. Yerkes and Mr. Brienza on neighborhood sewerage projects and commended them for their excellent work.

### F. BUSCH WILDLIFE SANCTUARY (BWS) – STATUS UPDATE

Mr. Hitzig reviewed his request for an extension of time to finish construction of the new Gift Shop and his proposal to resubmit a new timeline for completion of the project.

Mr. Shenkman reviewed his motion suggestion.

Chairman Whalen stated the Board's desire to know when the educational facilities would be available and what assurances the District has to make sure the deadline is met.

Mr. Hitzig stated that BWS's priority is education. Mr. Hitzig reviewed the impact the economy has had on the sanctuary.

Chairman Whalen instructed staff supply the Board with a list of conditions the Board could vote on with regard to forbearance.

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

“ THAT THE GOVERNING BOARD agree to a forbearance until the January 21, 2010 Board Meeting, to allow Loxahatchee River District staff to prepare a memorandum of forbearance conditions for Board consideration, including continuing the forbearance until the April 8, 2010 submittal deadline for the Loxahatchee River District Board notebook to allow Busch Wildlife Sanctuary to prepare a revised timeline based on the Loxahatchee River District forbearance conditions. “

#### G. ENGINEER’S REPORTS

Chairman Whalen reviewed the following engineering reports and stated the reports would stand as written unless the representative from the respective firm wished to comment: Wantman Group (WGI), Keshavarz, AECOM, Mathews Consulting and Hazen Sawyer.

#### H. LEGAL COUNSEL’S REPORT

Mr. Sherkman stated his report stands as written.

#### I. PUBLIC INFORMATION REPORT

Ms. Krasker’s report stood as written. Dr. Arrington pointed out the upcoming quarterly billing insert and stated that the quarterly inserts will be also be mailed to non-customers within the District’s service boundary for the 2010 calendar year.

Chairman Whalen suggested a mailing regarding the 25-year anniversary of the “wild and scenic” designation for the Loxahatchee River be sent to the area within the Loxahatchee River watershed but west of the District boundary.

#### J. DIRECTOR’S REPORTS

Dr. Arrington reviewed his dashboard figures. The remainder of the reports stood as written.

### 9. FUTURE BUSINESS

Chairman Whalen reminded the Board of the upcoming January election for Board positions.

10. FRIENDS OF THE LOXAHATCHEE RIVER

The Friends of the Loxahatchee River report stood as written.

11. COMMENTS FROM THE BOARD

No comments from the Board were received.

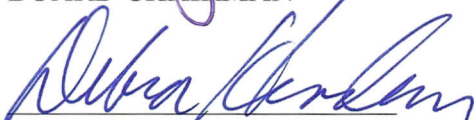
12. ADJOURNMENT

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

" That the Regular Meeting of December 17, 2009 adjourn at 10:42 P.M."

  
BOARD CHAIRMAN

  
BOARD SECRETARY

  
RECORDING SECRETARY