

MINUTES OF THE REGULAR BOARD MEETING
of the
LAKE COUNTY WATER AUTHORITY
December 16, 2009

The regular meeting of the Board of Trustees of the Lake County Water Authority was held at 3:30 p.m. on Wednesday, December 16, 2009 in the Lake County Board of County Commissioners Chambers at 315 West Main Street, Tavares, Florida.

Members Present-District #

Nancy Fullerton, Chair (#2)
Carolyn Dillon (#3)
Larry Everly, Jr. (#4)
Linda Bystrak (#5)
Keith Farner, Vice Chair (At Large)
John Harris (At Large)
Charles Clark (#1)

Staff Present

Michael J. Perry, Executive Director
Ben Garcia, GIS Manager
Ron Hart, Water Res. Prog. Mgr.
Lance Lumbard, Water Res. Proj. Mgr.
Patricia Burgos, Env. Program Mgr.
Ben Gugliotti, Land Res. Proj. Coord.
Carole Barice, LCWA Attorney
Linda Marino, Administrative Assistant
Gail Goldberg, Sr. Office Associate
Tracy Hauserman, Sr. Park Ranger
Linda Gavin, Recording Secretary

A list of others present that signed the attendance roster is filed in the permanent files of the Water Authority.

1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chairman Fullerton called the meeting to order at 3:30 p.m. and everyone stood for a moment of silent meditation and then recited the Pledge of Allegiance.

2. RECOGNITION OF EMPLOYEES YEARS OF SERVICE

Mr. Perry requested that Chairman Fullerton come forward. He stated the Water Authority is a small, family-oriented agency and that he and Chairman Fullerton would like to acknowledge several employees that have been with the agency for many years. He gave a brief job description and a plaque to Ms. Linda Marino, 20 years; Ms. Tracy Hauserman, 13 years; Mr. Ron Hart, 12 years; Ms. Gail Goldberg, 11 years; and Ms. Patricia Burgos and Mr. Ben Garcia, 10 years each. Mr. Perry thanked these employees for their dedicated service and Mr. Garcia took a photo of each with Chairman Fullerton.

3. APPROVAL OF MINUTES

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Page 4, 1st full paragraph, last sentence delete “not” before apply and change “ask” to asked in **3rd paragraph**. A request was made to verify if Mr. Parks stated residents in

certain counties are not allowed to fertilize during a five-month period and it was verified that is what Mr. Parks had said. **Page 5, 3rd paragraph, 1st sentence** show “Dr. Canfield is the head of the Harris Chain of Lakes Restoration Council (HCRC) Technical Advisory Committee”, and on **Page 11, 2nd paragraph, 6th line** add “not” before mandatory. **Page 12, 3rd paragraph, 1st sentence** show “Mr. Clark is not on the Harris Chain of Lakes Restoration Council (HCRC) but Vice Chair Farner is a member of HCRC”. **Page 22, 1st paragraph, 2nd sentence** show “Mr. Harris spoke to Mr. Metz of the School Board and Mr. Metz spoke with the School Superintendent...”. Several other grammatical changes were mentioned and the **Minutes stand as corrected**.

4. ELECTION OF OFFICERS

Chairman Fullerton nominated Mr. Farner, Mr. Harris nominated Mr. Everly, Jr., and Ms. Bystrak nominated Ms. Fullerton for Chair but Ms. Fullerton declined. The nominations were closed and the Recording Secretary read the results. Mr. Clark and Ms. Fullerton voted for Mr. Farner and he voted for himself. Mr. Harris and Ms. Dillon voted for Mr. Everly, Jr. and he voted for himself. Ms. Bystrak voted for “No One”. There being a tie vote, Ms. Bystrak voted a second time and voted for Mr. Farner. The vote was 4 – 3 resulting in Mr. Farner being elected Chairman.

Mr. Clark nominated Mr. Everly, Jr., Ms. Bystrak nominated Mr. Harris, and Chairman Farner nominated Ms. Dillon for Vice Chair. Nominations were closed and the Recording Secretary read the results. Chairman Farner and Ms. Fullerton voted for Ms. Dillon and she voted for herself; Mr. Clark and Mr. Harris voted for Mr. Everly, Jr. and he voted for himself; and Ms. Bystrak voted for Mr. Harris. There being a tie vote, everyone voted a second time. Ms. Bystrak, Chairman Farner, Ms. Fullerton voted for Ms. Dillon and she voted for herself. Mr. Clark and Mr. Harris voted for Mr. Everly, Jr. and he voted for himself. The vote was 4 – 3 resulting in Ms. Dillon being elected Vice Chair.

5. EXECUTIVE DIRECTOR REPORT

Mr. Perry stated the recent rain has made some difference but Lake Apopka continues a foot below regulatory level, Lakes Harris, Dora and Eustis remain 3” below regulatory level, and Lake Griffin is 6” above minimum desired. Lake Minnehaha continues a little more than three feet below regulatory range and near where it was this time last year.

Mr. Perry reported that staff met with the engineers and permit reviewers concerning Lake Beauclair’s restoration project and staff feels it was a positive meeting. Staff now feels that the permit reviewers will be able to efficiently process the permit and staff is ready to respond to the initial Request for Additional Information from the Florida Department of Environmental Protection (FDEP) and the US Corps of Engineers.

Mr. Perry mentioned Chairman Farner recently noticed hydrilla near the Nutrient Reduction Facility (NuRF) outfall, which staff immediately treated. He stated staff saw eel grass and desirable vegetation and when they measured water clarity entering the

NuRF, it stood at one meter but water exiting the NuRF was clear down to four meters which is making a huge difference in the Apopka-Beauclair Canal and a portion of Lake Beauclair. Ms. Dillon reported Venetian Village residents noticed healthier vegetation in their canal and have received a pamphlet about desirable vegetation.

Mr. Clark stated when the previous Board was told about the upcoming NuRF project, they asked about operating costs and were told it would be about \$1 million a year. He said the flow rate over the last nine months has been 23 cfs and if that rate continues, operational costs will reach \$1 million this year. He said if the flow rate increases to 150 cfs then the operational costs could be as much as \$5.5 million a year. Mr. Lombard said a flow rate of 150 cfs would probably be just for a short time and based on the original operating cost of \$.50/gal., total about \$1.5 million, which is shown in the FY 2009-2010 budget. Mr. Clark said if flow rates dramatically increase, it could cost as much as \$5.5 million. Mr. Perry stated peak flows often are of short duration, and if flows are higher than expected, treatment can be reduced or halted. He stated staff tried to show the previous Board what they thought the flow rate would be based on treating a 12-month flow.

Mr. Clark requested staff look at flow rates for the past 25-50 years because he does not believe they will stay at 23 cfs. He said the Board needs this data in order to have a clear idea of how much the alum will cost. He referenced Mr. Perry's comment that treatment could be reduced or stopped and said that would defeat the purpose of the NuRF. Mr. Lombard interjected the budget has always been based on a statistical average period of record because there has never been an average flow rate. Mr. Clark thought the flow rate for the past 25-50 years was probably twice that of 23 cfs. Mr. Everly, Jr. stated as Lake Apopka improves, there will be less phosphorus coming through the NuRF but Mr. Clark pointed out the same amount of alum is used based on flow rate regardless of phosphorus concentration. Chairman Farner requested this item on a future agenda and asked that Mr. Clark's request for past flow rates be included along with the best and worst case scenarios so the Board knows what to expect.

Mr. Perry stated staff met with City of Clermont staff who agreed to obtain a quote from their consultant to manage and design the permitting portion of the Hooks Street project. Water Authority staff will bring this information to the Board at a later date.

Mr. Perry stated Hickory Point Recreational Facility's alcohol policy for some time has been any time alcohol is associated with an event, those renting the pavilion must have appropriate insurance and a uniformed security guard present. Within the past month, staff has been unable to contact the security company by phone and without a security guard no one is allowed to have alcohol in the Park. He stated there are no requests for this type of service between today and March or April 2010 so staff recommends that serving of alcohol be suspended until this issue is discussed at a future Board meeting.

Mr. Perry reported Ms. Burgos has been working with Attorney Barice on developing a Memorandum of Understanding to allow the Water Authority to enter into a partnership with Lake County Parks and Trails to host joint paddling trips on the Harris and Clermont

Chains of Lakes. The County has canoes, kayaks, and trailers and there could be as many as six trips during 2010, which would be at no cost to the Water Authority, and free to the public. Staff is requesting Board approval to submit a grant to the Florida Division of Forestry Endangered and Threatened Plant Conservation Program for Crooked River to pay up to 75% of the management activities over three years or \$8,000-\$10,000/yr. of in-kind services to the Water Authority.

Mr. Harris made a motion **THE WATER AUTHORITY PURSUE A GRANT OPPORTUNITY WITH THE FLORIDA DIVISION OF FORESTRY ENDANGERED AND THREATENED PLANT CONSERVATION PROGRAM.**

Seconded by Ms. Fullerton, the motion carried 7 - 0. Mr. Perry stated if a grant is received, staff will bring the draft agreement to the Board.

5. DISCUSSION ITEMS

a. Harris Chain Restoration Council Funding Issues

Mr. Perry stated this is a continuation of last month's discussion related to the Harris Chain Restoration Council and Water Authority money and how to use it. Since that time, the St. Johns River Water Management District (District) has determined they can handle all of the administrative functions for the Council within the budget they have authorized and they feel they do not need Water Authority funds to cover those administrative costs. He said he must have misinterpreted Mr. Goerner's request last month because he thought that all the Council wanted was to have the ability to approve their expenditures.

Mr. Skip Goerner, Vice Chairman of HCRC came forward and stated he hopes everyone understands the Council needs to have the ability to approve invoices for expenditures claimed by any contractor because it is a layer of protection for the funding the Water Authority provides HCRC. He said he has been upset in the past because District money has not been totally expended before Water Authority money has been used. He reported HCRC's contractor charged \$25,000 to prepare their Annual Report and the majority of that money was the burden of the Water Authority, but that burden should have fallen on the District. He noted the Council needs to have the ability to review any invoice and make a recommendation as to whether an invoice should be paid or not. He noted HCRC has a good working relationship with the Water Authority and that relationship will continue. He said HCRC wants to watch over the expenditures because Water Authority money is HCRC's money and he believes they have done a good job in the past and will do an even better job if everyone is aware of what is going on. He distributed a copy of the HCRC 2009 Annual Report to the Legislature to each Board member.

Ms. Dillon stated last month she mentioned that invoices should be reviewed by the Council before they are paid because HCRC needs to ensure the invoices are correct. She stated this process will not bypass the Water Authority's normal procedure and the invoices should have been handled this way all along.

Mr. Goerner said HCRC does not have the ability to pay their invoices so the Water Authority has taken on the burden of processing them. He said HCRC has the ability to oversee the money coming from the District which is passed on to the Water Authority. He said everything HCRC spends first comes to the Council for review and then they vote on how they want to spend the money. He reminded the Board in November, they voted to pay an invoice covering fishery enhancement starting with Hickory Point. He said the Water Authority holds the money but the Council has the ability to approve expenditures and is requesting they be allowed to approve their invoices so they know how much money is being spent.

Mr. Clark stated the District has said they will contribute \$7,500 and that one of their employees will prepare Council minutes but he is not sure if the cost for the minutes will be deducted from the \$7,500. He said the District plans to hire a contractor to prepare the Council's Annual Report and he asked Mr. Goerner if he is requesting permission to approve the invoice the District receives from the contractor. Mr. Goerner responded yes, along with all of their other invoices. Mr. Clark said then Mr. Goerner does not believe the District has the right to spend their money as they see fit and Mr. Goerner clarified it is not District money. Mr. Goerner stated if the District says they have spent \$7,500, and HCRC's legislation says the District is to pay the administrative costs in addition to cost to prepare the Annual Report, the Water Authority should not have to pay. Mr. Clark stated the District will pay; it is just a question of whether or not the District needs Council's approval. He said what he is hearing is Mr. Goerner wants the District to have to get Council approval to contribute \$7,500 or a portion of that money. Mr. Goerner explained the District's contribution is \$7,500; they pay that amount first and do not send the Water Authority an invoice.

Mr. Goerner stated HCRC's legislation states the District is responsible for all of the administrative costs. The majority of that cost is the preparation of HCRC's Annual Report and the Water Authority has ended up paying for the Annual Report. Mr. Clark inquired if it is more than \$7,500 and Mr. Goerner thought that it would be because it has exceeded that amount each year for the last several years. Mr. Clark stated an individual prepares the minutes and the Annual Report so the Council does not know what it costs to produce each item. Mr. Goerner stated the District prepares invoices and asks for reimbursement from the Water Authority but the Council never sees their invoices and has no say as to which invoices will be paid. HCRC receives \$40,000 a year from the Water Authority and they want to know how that money is being spent.

Mr. Kaiser, HCRC member came forward and said the Council does not have control over their own costs. He added the Council is very frugal and he does not want them forced into asking for additional Water Authority funds.

Ms. Fullerton said in reading the Staff Report and in talking with Mr. Perry, the District has said they can provide adequate administrative support and prepare HCRC's Annual Report for \$7,500. Mr. Perry reported the District has received a quote of \$4,000 to do the Annual Report. Mr. Goerner stated the Council has never negotiated with the contractor. The District negotiates and awards the contract to the lowest bidder. He said

usually it costs \$25,000 a year to prepare their Annual Report and now the District is saying that they can do everything for \$7,500.

Mr. Perry stated the Water Authority believes the District has full responsibility for the administrative costs so he recommends cancelling the current purchase order with the District. He said in that way the balance of \$40,000 is available to the Council to take whatever action they feel is necessary; it takes the District out of the loop and puts the Council in control. He said HCRC projects will come before this Board for approval because it is Water Authority money and everything is done the way it should be done rather than the way it has previously been done. There was further discussion concerning this matter.

Vice Chair Dillon made a motion **TO ACCEPT THE EXECUTIVE DIRECTOR RECOMMENDATION.** Seconded by Mr. Clark, the motion carried 5 – 2 with Ms. Bystrak and Mr. Harris voting against.

{Executive Director Recommendation: (1) Cancel the existing purchase order with the SJRWMD related to the Harris Chain of Lakes Restoration Council; and (2) Authorize the Executive Director to approve expenditures on behalf of the Harris Chain of Lakes Restoration Council that do not exceed \$2,500, only if the expenditure is approved by the Harris Chain of Lakes Restoration Council and reflected in their minutes. Any expenditure above \$2,500 would require approval by the Water Authority Board of Trustees.}

b. Request to Purchase LCWA's Sawmill Lake Parcel

Mr. Everly, Jr. made a motion **TO ACCEPT THE EXECUTIVE DIRECTOR RECOMMENDATION.** Seconded by Vice Chair Dillon, there was no vote at this time.

Ms. Fullerton said this property is near her home and she favors denying Dr. Katz's request to purchase the parcel. She reported there are three championship wake boarders on Sawmill Lake and she wondered if they plan to have a ski school or slalom course.

Mr. Perry stated Dr. Katz has requested a "right of first refusal" if the Water Authority should at some point decide to sell the property. Chairman Farnier commented he is not in favor of that being added to the motion because he felt it would set a bad precedent.

Ms. Bystrak asked Attorney Barice her thoughts and she said it is a Board policy decision but she strongly supports their wish to accept the Executive Director Recommendation to deny this request. She also agrees it would set a bad precedent and does not believe it is a good idea to give anyone right of first refusal. Ms. Bystrak asked about the asking price and the Board told her the parcel is not for sale.

The motion carried 7 – 0.

{Executive Director Recommendation: Deny the request by Dr. Luis

Katz to purchase the 20-acre Sawmill Lake Property. }

c. Review of New Office Floor Plan, Elevations and Site Plan

Mr. Perry stated the Board authorized staff to enter an agreement with the architect to design the new office, a floor plan, elevations, parking requirements and detailed site plan are now complete and ready for their consideration.

Chairman Farner stated he is concerned about how near the new office would be to SR 19 if that road was widened, and he asked about the \$40,000 estimate for stonework, columns, and windows. Mr. Hart explained the estimate covers stonework, different types of columns, and more decorative windows. Chairman Farner asked if Mr. Hart thought \$40,000 was an accurate estimate and Mr. Hart asked Mr. Everly, Jr. to respond. Mr. Everly, Jr. stated energy efficient windows and stonework are expensive but can also help reduce maintenance costs.

Mr. Kaiser stated there is little difference in cost between one window over another; it is the framework that is expensive.

Chairman Farner requested that staff determine the difference in cost between the two types of windows and the cost of the stonework and to bring this information to the Board at a later date. He asked how the Board felt about the office location.

Vice Chair Dillon said the distance from the parking area to the front door is too far for handicapped visitors or someone stopping by for a moment. Mr. Harris suggested turning the office 90° to what is shown on the site plan which would result in the office being further away from SR 19. He said that might resolve any concern the Board has about the distance from the parking area to the front entrance. Mr. Perry explained if the office is moved more toward the west, it is then in the designated parking area. In addition, the architect told staff that if the office is turned 90°, it will be less energy efficient and would not allow traffic passing by to see the agency's sign. Mr. Everly, Jr. added that the south side of the building would be exposed to the sun the entire day.

The Board discussed the distance between the handicap parking area and the front entrance and the distance between the front entrance and SR 19. A suggestion was made to move two handicapped spaces plus a few short-term parking spaces to the front. Ms. Fullerton agreed that she does not like the closeness of the office to SR 19 and asked why it could not be moved further away since there is an entry road to the west. She asked if moving the office would hinder access to the building and Mr. Hart responded the existing overflow parking area would need to be smaller and the curve in the road eliminated. He said there would be insufficient space in the front of the office for vehicles to pull in and back out of a parking space and not be enough space to meet the County's landscaping buffer requirement. He said if the Board wants a few spaces in front, the office will have to be moved further back from SR 19. Chairman Farner requested staff bring alternate office sites to the January meeting.

Chairman Farner wanted the Board to discuss the aesthetics of the office including the columns, stonework, and windows. Ms. Bystrak thought a vote should be taken to decide on the stonework and another vote taken to decide on the windows. Vice Chair Dillon felt the Board needed to know the cost breakdown of each so they are able to decide what they want to keep or eliminate. Mr. Hart stated most of the cost difference is associated with the stonework since there is about \$2,000 difference between the two types of windows and \$3,000 difference between the two types of columns. He said the consultant advised if the arts and crafts type column is selected and stonework is only applied to the front of the office, it could reduce the cost by \$10,000. Mr. Hart stated the building's exterior most likely will be made of block but exact details are not available. Ms. Dillon stated stone is very durable especially where weeding and mowing are done. Ms. Fullerton said she has felt from the beginning that the new office must be energy efficient but built as inexpensively as possible.

Mr. Clark restated that he wants to know the cost difference between the two types of windows because he believes both types are energy efficient. He said the new office will be on Water Authority property and never sold unless the Park is sold. He added that stonework would not enhance what the Water Authority does but we could be criticized if there is stonework on the office.

Mr. Everly, Jr. stated the office is a long-term investment and will have to be continually maintained. He said he believes in being frugal but the office could be constructed too cheaply.

Ms. Bystrak stated she does not want the office to have stonework but would like it to have energy efficient windows. Mr. Hart said it will have thermal pane windows; the only difference is one type of window is six over six panes and the other is a single hung window.

Ms. Fullerton made a motion that **IN LOOKING AT THE ARCHITECTURAL DESIGN OF THE NEW OFFICE, THE BOARD WILL GO WITH THE MORE FUNCTIONAL PLAN AND ELIMINATE THE STONEWORK INCORPORATED IN THE ONE DESIGN.** Seconded by Mr. Harris, there was no vote at this time. Mr. Clark asked if the stonework would be put across the front of the office and Mr. Hart said it would be across the front and on the side next to the parking area. **The motion carried 4 – 3 with Chairman Farner, Vice Chair Dillon, and Mr. Everly, Jr. voting against.**

The Board restated they want to see a cost breakdown on the two types of windows and alternatives sites for the office. Mr. Perry stated staff could place stakes at reference points indicating where the office might be located in case Board members want to visualize possible sites.

The meeting recessed at 5:30 p.m. and reconvened at 5:45 p.m.

6. PUBLIC COMMENT

Mr. Goerner referenced Page V. of HCRC's 2009 Annual Report which contains long-term average flow graphs, Secchi depth readings, and total nitrogen and phosphorus readings supplied by the District. He said it is a burden for the Water Authority to run the NuRF when their total budget for a year is just \$5 million. He said the NuRF has been very successful and has removed enough nutrients to meet the Total Maximum Daily Load (TMDL) criteria. He said he recently saw photos of clean water exiting the flow-way but when Mr. Perry spoke about NuRF's success, he also reported water entering the NuRF averages 100 ppb Total phosphorus, which is 65 ppb over the TMDL requirement. Mr. Goerner said he wishes the Water Authority did not have to spend millions on alum treatment or \$7.2 million on a facility but if downstream lakes are going to improve, the major source of nutrients out of Lake Apopka must be stopped. He said if one looks at long-term averages, each category is worse, so the District has to show when there is heavy rain for extended times at large flow rates, it can ruin the good NuRF is doing. He said most of the nutrients in Lake Apopka come from the North Shore area and the District has spent millions but nutrients continue to exit Lake Apopka.

Mr. Clark said according to the TMDLs, 93% of the Total phosphorous entering Lake Beauclair flows down the AB Canal. Mr. Goerner explained Lake Beauclair acts like a seine and when the \$10 million Lake Beauclair restoration project is complete, sediment will still flow out of Lake Apopka, down the AB Canal and into Lake Beauclair. He said hundreds of millions of dollars has been spent on the restoration of Lake Apopka but it is still not where it should be. The District's target is 55 ppb Total phosphorous but there is no projection of when Total phosphorus will reach that level or meet the TMDL criteria since it needs to drop to 35 ppb. He said the only way to reach that level was to build the NuRF; it is working and discharging clean water.

Mr. Goerner referred to the USGS flow chart in the Annual Report and said in the past this Board has spoken about the 20-acre feet of material that flowed out of Lake Apopka in 2004, but in 1997 considerably more sediment flowed out of Lake Apopka due to heavy rains but that data was never factored into the equation. Unless Lake Apopka is cleaned up and something different is done, there will be additional events where material re-enters Lake Beauclair and a 600 cfs flow rate would certainly overwhelm the NuRF. For the past nine years, the Council has examined data from various agencies, including the Water Authority, and they have recommended that something different be done. He stated the District maintains shad harvesting is working but the Council disagrees and believes the predator to prey balance must be brought back so as not to harm sports fishing. The District has recently told everyone how great their stripped bass program is working but it is because the Florida Fish and Wildlife Conservation Commission (FFWCC) agreed with the Council that a million stripped bass should be stocked in Lake Apopka to increase the predator base to help overcome the shad population.

Ms. Fullerton noted this Board has talked about how the Legislature formed HCRC but chose not to fund it. She said when she read their Annual Report it looks as if they are

requesting the Water Authority fund restoration projects HCRC has been challenged with and she asked why HCRC does not request trust fund money. She also asked if the Lake Beauclair restoration project or the NuRF could count as one of HCRC's restoration projects. Mr. Goerner responded the Council has requested money for specific projects but he believes the District should contribute to NuRF's maintenance since it is why Total phosphorus is nearer the TMDL requirement.

Ms. Bystrak inquired if the Council asked the Legislature to take money from the District and give it to FFWCC for Lake Apopka's restoration and Mr. Goerner responded that the Council and FFWCC each asked for money. She asked if trust fund money would pass through the District. Mr. Goerner said money passes through a number of Florida agencies for specific projects and that some trust fund money is used for shad harvesting and some goes toward the restoration of the North Shore area and the flow-way project. He said the only funding source now is trust fund money and the Council has requested some of that money pass through the FFWCC and to the Council for their projects.

Chairman Farner mentioned in the 2009 Annual Report, HCRC requested \$5 million from the Legislature to assist with the Lake Beauclair restoration project expense.

Mr. Clark asked if Mr. Goerner had requested the Legislature remove all District restoration projects and give them to the FFWCC. Mr. Goerner stated he personally believes some of the projects should be transferred but not all of them because the Council has reviewed the same data the District has; however, the Council reached a different opinion of what should be done and that caused some problems. He stated the data on Page V. is the key and the best approach is to do what is right for Lake Apopka because technology exists and the Council has said restoration must be done differently.

7. DISCUSSION ITEMS (Continued)

d. Results of 2009 Benthic Invertebrate Monitoring

Ms. Sandi Hanlon-Breuer stated the Lake Condition Index (LCI) indicates ecosystem health and identifies impairments in Florida lakes through macroinvertebrates. Pollution tolerant macroinvertebrates indicate poor lake conditions and pollution sensitive macroinvertebrates indicate more desirable conditions. Water chemistry is important but may only reflect present conditions and may not show impacts to a system so bioassessments evaluate impairment or improvement of the entire ecosystem integrity. After macroinvertebrate processing and calculations are complete, a final numerical LCI rating of Very Good to Very Poor is assigned. In 2007, the Clermont Chain ranged from Good to Very Good; in 2006, Lake Minneola was Good and improved to Very Good in 2007 mostly due to an increase in the pollution sensitive Hexagenia mayfly population. Upon completion of the fourth year of LCI results, the Clermont Chain is in good condition with a high number of diverse pollution sensitive macroinvertebrate species. The most notable change occurred in East and West Lake Minnehaha which improved from Good to Very Good mainly due to an increase in the overall species diversity and the southern portion of Lake Louisa dropped from Very Good to Poor. The northern portion of Lake

Louisa's drop in its LCI score was not enough to lower it from Very Good to Good. That lake's overall LCI score declined from 2007 to 2009 in both the northern and southern portions caused by lower caddisfly and mayfly populations in the northern portion and a complete loss of all caddisfly, mayfly, and dragonfly species in the southern portion. Lake Minnehaha's overall diversity improved from 13 species in 2007 to 24 species in 2009 and Lake Minneola received a Very Good score in 2007 and in 2009.

Ms. Hanlon-Breuer reported that the Clermont Chain's loss of beneficial plant life is shaded out which has caused Total phosphorous to increase over the past 10 years. In 2006, staff reported alga blooms for the first time in Lakes Minneola and Minnehaha and the LCI score indicated a decline in diversity and pollution sensitive species. Fluctuation in the natural systems is expected but if pollution continues to increase, the system may not be able to rebound with pollution sensitive biota that has been present in the past. The LCI assesses the impacts of water quality degradation and improvement made to the lakes' ecosystem and can be used to qualitatively and quantitatively evaluate expected improvements from the NuRF, stormwater retrofit, and other such projects.

Mr. Harris asked whether the degradation in southern Lake Louisa is due to less flow through the Green Swamp. Ms. Hanlon-Breuer said there was little rainfall in 2005 through most of 2007 and when the rain returned, stormwater runoff made it difficult to determine a trend with just four data points. She said in 2007, southern Lake Louisa's score fell from 60.66 to 26.88, so something happened possibly due to rainfall that wiped out all of the pollution sensitive species. The Green Swamp and Big and Little Creeks are sources of pollution that have always influenced the Clermont Chain. Mr. Hart interjected that during 2003 and 2004, benthic monitoring was not done in this area so when the flow increased through Big Creek, it was not possible to determine what changes took place; however, monitoring is now being done in that area. She said this year; water began re-entering the system loaded with nutrients, and low in dissolved oxygen, and that may have caused the macroinvertebrates to die during wet periods in the southern portion of Lake Louisa. In addition, there has been increased development in that area so water quality may not be as good as it once was.

Mr. Harris said during the last severe drought after water levels began to rise, Lake Louisa had a heavy water hyacinth bloom. He said it would have been good to know the LCI score in 2002-03 and in 2007-09. Ms. Hanlon-Breuer said she has seen an increase in nutrients and Total phosphorus which could be an indication of increased pollution sensitive species productivity.

Chairman Farner felt there is value in benthic monitoring and asked whether bioassessments were done on the Harris Chain. Ms. Hanlon-Breuer noted that it was not done this year but she recently completed bioassessments on Lake Beauclair and will present that report to the Board in 2010. Chairman Farner said it is very important for the Board to know how the Harris Chain does in 2010 so we can determine how NuRF affects water quality.

Ms. Fullerton asked if samples were taken at the outfalls of Big Creek and Little Creek. Ms. Hanlon-Breuer explained during a drought the Green Swamp dries out and when the

rains return, Total phosphorus flows through the Creeks and into Lake Louisa. Ms. Fullerton noted that there are pastures on Old Nellie Road and asked if there is some way to determine how those affect the Creeks and Lake Louisa. Ms. Hanlon-Breuer mentioned that nutrient and dissolved oxygen tests could be done to see if they may be affecting that lake. Ms. Fullerton said she would like to be able to tell the Clermont Council about the Clermont Chain and asked what to say and Ms. Hanlon-Breuer said the Council needs to know that the residents in that area are adding to the nutrient level which causes water degradation. She suggested that staff continue to emphasize that stormwater retrofit grant projects can halt pollution before it progresses any further.

Ms. Bystrak said the Water Districts have had heated discussions about changing numeric values for the waterways and she asked if EPA will require ratio changes. Ms. Hanlon-Breuer said the State developed LCI scores and each section of Florida has specific criteria designed for their ecosystem. Thorough index testing has been done for many years and the State found it to be good criteria to use for setting the LCIs so she does not believe the scoring will change. Ms. Bystrak asked if other evaluation numbers will change and Ms. Hanlon-Breuer said it is possible since water chemistry, TMDLs and Total phosphorus continues to be debated.

e. Authorization to Revise FMLA Policy

Mr. Perry stated the Board adopted the Policies and Practices Employee Manual a few years ago which is consistent and nearly verbatim to the County's Employee Manual. He said staff realized when our policy was adopted we may have opened ourselves to a problem and that is kind of what happened with the Family and Medical Leave Act (FMLA). The Act, created in 1993 applies to large employers (50+ employees) and states that if someone should go out on a qualified extended medical leave, the employer has to hold the position open for 12 weeks, does not have to return them to their previous job, but can assign them to an equivalent job. He stated the Water Authority is not a large employer and does not trip that threshold. He added the law continues to change and if the Water Authority does not do everything correctly, it could have a problem. He said after listening to our counsel related to this, his recommendation is that staff revise the Water Authority's Policies and Practices Employee Manual to eliminate the FMLA portion of our policy and work to develop a replacement policy that would cover qualified extended leaves.

Ms. Fullerton made a motion TO ACCEPT THE EXECUTIVE DIRECTOR RECOMMENDATION. Seconded by Vice Chair Dillon, there was no vote at this time.

Ms. Bystrak said she is concerned about taking away this protection and would like to see the replacement policy first before the Board votes. She said right now this is all our employees have to protect themselves. Chairman Farner stated he does not believe the issue of scraping the policy was part of the motion. Mr. Perry stated in the Executive Director Recommendation, he recommended that Section 28 be removed and that staff develop a replacement policy.

Vice Chair Dillon stated she liked the idea of removing Section 28 because the Water Authority is not required to have that policy in the Employee Manual in the first place, and if the Water Authority does not follow it to the letter and something happens before the new policy is written, the Water Authority could be liable and have problems.

Ms. Bystrak requested a legal opinion. Attorney Barice stated the Board has the ability to delete this policy and later write a replacement policy, if that is what they want to do because it is really a policy decision at this time. She said Mr. Perry is right that currently the way the policy is written, unfortunately the Water Authority falls under the federal law, and we need not. She said the Board can require that the revised policy come back at the same time and substitute the existing one or take the current policy out and in the interim, if an issue should arise, let Mr. Perry deal with it at that time.

Chairman Farner asked Mr. Perry why he thought the current policy is bad enough that it needs to be removed before the replacement policy is in place. Mr. Perry explained the current policy is tied to federal law and apparently the federal law changes all the time and unless someone is a labor attorney and can keep up with the changes, there is the potential of running into trouble with the Federal government. He said his concern is that if tomorrow, a Water Authority employee had to go out on extended medical leave, and staff did not follow the current policy exactly, the Water Authority has the potential, according to the labor attorneys, of running into a problem with the Federal government. He said the Water Authority does not have employees go out that often on extended medical leave and he believes within the next month or two staff should be able to develop a replacement policy and everything would then be in order. He said if someone does have to ask for extended medical leave, staff either allows them to do so because there is a policy or they are told they cannot take extended medical leave. Chairman Farner said then at that point it is left up to the discretion of staff, the Executive Director, and the Board. He asked how long the current policy has been in affect and Mr. Perry stated he thought it was done three to four years ago. Chairman Farner stated that he is just concerned about protecting the Water Authority employees.

Mr. Harris said the Water Authority has certain responsibilities, which also makes the employees have certain responsibilities in order to get their leave. He asked if the Water Authority has had anyone request extended medical leave recently and Mr. Perry replied there has been in the past couple of months. Mr. Harris asked if that had anything to do with this policy and Mr. Perry responded that it did.

Mr. Clark suggested revising or changing the Executive Director's Recommendation to read "To allow the Executive Director to revise the Lake County's Water Authority's Policies and Practices Employee Manual by removing Section 28-Family Medical/Leave Policy and developing a replacement Extended Leave Policy concurrently". Ms. Bystrak said that sounds much better. Attorney Barice emphasized it would be a new policy and would have to come back to the Board. Ms. Bystrak stated at least there would not be a period of time when the employees are not covered at all.

Ms. Fullerton withdrew her motion and Vice Chair Dillon withdrew her second.

Mr. Everly, Jr. stated if the motion is put together as said, the Executive Director would have to immediately develop another policy and that means that Mr. Perry would have to come up a policy and the Board would not review the policy. He said it would be completely in Mr. Perry's hands to put together a policy. Mr. Clark said that Mr. Perry would then need to give it to the Board and Mr. Everly, Jr. said no, it would not be able to be approved because the policy would be immediate and could not wait until the end of January. Ms. Bystrak stated the Board needs to first come up with a new policy, vote on it, and then throw out the old policy.

Mr. Perry stated he understands the Board does not want him to take such severe action to say "no" that an employee will not be able to go out on an extended medical leave until there is a new policy. He said he believes the Board is saying that it should be done on a case-by-case basis and to be humanistic and deal with it when it occurs but his recommendation is to take the FMLA portion out of the Policies and Practices Employee Manual at this time so that the Water Authority does not get into any trouble and that staff will work with whomever makes a request for extended medical leave.

Vice Chair Dillon felt most of Section 28 worked just fine but references to "federal law" should be deleted now or the Water Authority could have a problem. Mr. Everly, Jr. said he has a labor attorney friend who wipes out companies and government agencies because FMLA is not followed exactly. Chairman Farner stated his concern is that he wants to protect the employees and is comfortable with Mr. Perry's assurance that the Water Authority will take care of its employees and that there soon will be a new policy in place to protect the Water Authority; so let's eliminate the FMLA section.

Mr. Clark said most on the Board know how he feels about things being determined on a case-by-case basis, whether Mr. Perry does it or anyone else does it, there must be a policy. He said people think that personalities do not enter into it, but they do. He would like to see a policy in place at all times and could be done at the same time or one policy immediately done following the other. Mr. Perry stated the new policy will be presented at the January meeting.

Vice Chair Dillon said if the Board adopted a policy that is worded exactly like the current FMLA policy, but without the "federal" portion, would it cause Mr. Perry concern. He said he would have to look at the entire section, but thought it would be the core of what staff develops in the future. She asked if she should make a motion to remove the part that makes it follow the "federal" law and make this the policy until Mr. Perry brings the revised policy to the Board in January.

Attorney Barice said the wording may be too tight and she is not sure. She said either you eliminate the policy and the Water Authority is no longer under the Act or you do not change it and you are still under the Act even if you do not use the words. She said it has to be carefully worded so she believes she will have to work with the Labor Council to make sure that what is developed is appropriate for a small employer such as the Water Authority. She said she could see a situation where any reference to the "Act" or left it the same and a situation occurs, she thinks the Act may very well apply. She said that

she would certainly make a good argument that it does on behalf of her client. She said the Water Authority would be doing indirectly what they could not do directly. She said the “scalpel” will be with precision because she does not know that one can go into the policy and remove “federal” and that makes it different.

Vice Chair Dillon made a motion **TO ACCEPT THE EXECUTIVE DIRECTOR RECOMMENDATION.** Seconded by Chairman Farner, the motion carried 5 – 2 with Mr. Harris and Ms. Bystrak voting against.

{Executive Director Recommendation: Revise the Lake County Water Authority’s Policies and Practices Employee Manual to remove Section 28-Family/Medical Leave Policy and direct staff to develop a replacement extended leave policy.}

f. License Agreement for Bugg Springs Building

Mr. Perry reported the County has requested and the Water Authority has given permission for them to store emergency management equipment and supplies in the Bugg Springs building. A formalized agreement has been prepared and reviewed by both counsels and includes a list of the items the County plans to put in the building (Exhibit A). Mr. Perry mentioned the license agreement describes Lake County as a political subdivision of the State of Florida and Water Authority staff will add that the Lake County Water Authority is a Special Taxing District.

Mr. Harris made a motion **THE BOARD AUTHORIZES THE EXECUTIVE DIRECTOR TO EXECUTE THE BUGG SPRINGS BUILDING LICENSE AGREEMENT WITH LAKE COUNTY.** Seconded by Ms. Fullerton, there was no vote at this time.

Ms. Bystrak said she is surprised to see that the Bugg Springs building was donated by the U.S. Department of the Interior to the Water Authority. Ms. Burgos explained the history of Bugg Springs and the Navy’s involvement. Ms. Burgos further clarified that the adjacent property is where the Branham’s home is located. Certain properties transfer over to the Department of the Interior as part of the Public Parks and Public Agencies Federal Donation Program. Ms. Bystrak thought boats are stored in the building but Ms. Burgos advised the only boats in the building she is aware of are two kayaks owned by the Water Authority. Ms. Bystrak stated she heard a rumor that at one time this building might be turned into a museum. Ms. Burgos responded staff has talked about possibly opening the building and using Education money to build display posters of Bugg Springs as one of our water resource programs once the Naturalist is hired.

The motion carried 7 – 0.

8. LEGAL STAFF REPORT

Attorney Barice reported that during the December meeting, she informed the Board that she had been speaking with the legal counsel for Environmental Research and Design, Inc., the designer of the NuRF. She said she had hoped to receive some communication towards a settlement but apparently ERD is not responding and has pretty much shut down any contact. She said outside counsel is preparing a Complaint to File and the Water Authority Board has given her authorization to file suit, if necessary. She said the concept is that if a lawsuit is filed, it could go to early mediation, which requires ERD to communicate with the Water Authority resulting in some action. She said it may be that it will not be necessary to file an Action, and something will happen prior to that time, but at this time it does not make sense to do nothing.

9. ACTION ITEMS

- a. Approval of FFWCC Funding Agreement for Lake Beauclair Restoration

Vice Chair Dillon made a motion **THE BOARD ACCEPT THE EXECUTIVE DIRECTOR RECOMMENDATION.** Seconded by Mr. Everly, Jr., there was no vote at this time.

Ms. Fullerton inquired if the Lake Beauclair restoration project qualifies as a HCRC project and whether HCRC plans to ask the Legislature for funding for the Water Authority. Mr. Goerner stated this is a joint effort between the FFWCC and the Water Authority and HCRC did speak with the Legislature about this project but it is not one of HCRC's projects. Vice Chair Dillon mentioned the Council asked the Legislature for \$5 million in trust fund money.

Ms. Fullerton referenced the project's Scope of Services and asked if there was any mention of the Clean to Green method. Mr. Perry stated the FFWCC does not plan to fund sediment removal from the canals but will contribute \$1 million toward dredging the bottom of Lake Beauclair. Mr. Lumbard clarified when the contractor separates the costs; Water Authority staff will add representative sections so all costs end up in one place and then staff can send the FFWCC detailed invoices. Mr. Everly, Jr. stated Clean to Green's method is just one method of sediment disposal.

The motion carried 7 – 0.

{Executive Director Recommendation: Authorize Executive Director to execute the Cooperative Agreement between the Florida Fish and Wildlife Conservation Commission and Lake County Water Authority Lake Beauclair Restoration Project for an amount not to exceed \$1,000,000.}

b. Approval to Add BCI Engineers and Scientists, Inc. to List of General Engineering Services Contractors

Mr. Perry stated staff considered the fact that the Water Authority may need to use BCI on future projects and after looking at their history, they felt it would be appropriate to add BCI to the General Engineering Services Contractors List. He noted that it does not obligate the Water Authority to provide contracts or to use them. A question was asked as to why BCI was not included the first time. Mr. Perry stated the Water Authority wanted to limit the number of general engineering firms but in looking at their expertise, BCI's score was only slightly below that of the first four or five firms.

Ms. Fullerton made a motion to **AUTHORIZE THE EXECUTIVE DIRECTOR TO ADD BCI ENGINEERS AND SCIENTISTS, INC. TO THE LIST OF GENERAL ENGINEERING SERVICES CONTRACTORS.** Seconded by Mr. Harris, the motion carried 7 – 0.

10. BOARD MEMBER COMMENTS

Ms. Bystrak reported that she and others attended a two-hour meeting at Emerald Marsh and heard about the District's management plan. A number of fishermen and hunters were there and voiced their concern about heavy use of aquatic pesticides because it has killed shrimp, frogs and fish, and resulted in no fish-eating birds for them to shoot, which she thought was a rather interesting comment. Secondly, she and 50 others recently participated in the 110th Nationwide Christmas Bird Count across Lakes Griffin, Weir, and Yale. Each year, she has kayaked Lake Yale and after the fog lifted that day, she noticed the lake was completely covered with algae and she was unable to see any fish-eating birds or down into the water. She called Dr. Fulton with the District and he requested she leave a sample at Sunnyside and he would look at it under the microscope the next day but she has not heard from him. When she looked at her sample she counted at least three different types of algae. She said she has also talked to the property owners around Lake Yale and they tell her that they have seen at least six blooms this year. She said she is concerned because this is a December bloom. Thirdly, she requested that she be allowed to sit nearer the Chairman because she has hearing loss and is unable to hear the Board when they turn their head or do not speak into their microphone. Mr. Perry stated in the past the Chairman has made the seating assignment and discussion ensued about the seating arrangement but there was no final decision.

Mr. Everly, Jr. congratulated Chairman Farnier and Vice Chair Dillon on their new Board positions and wished everyone Happy Holidays.

Mr. Clark stated if a Board member wants to know why FFWCC is not contributing to a portion of the Lake Beauclair project, they need to ask because FFWCC will talk to them. He stated Mr. Goerner advised he has trouble getting data from the District but Mr. Clark said when he asks for data he is flooded with information. He said if the Board wants to know how local politicians feel about the Water Authority's various projects and whether we are likely to receive funding, the Board needs to ask the politicians. Secondly, when

the Recording Secretary prepares the Minutes, she includes what she believes someone meant to say but sometimes she takes a statement out of context or it is construed the wrong way which then ends up not being what the person meant. He suggested the Board give the maximum possible latitude and when they say that what is shown in the Minutes is not what they said or meant, they need to keep in mind that paraphrasing is sometimes done to reduce the length of the Minutes.

Vice Chair Dillon stated HCRC's aquatic harvester is being used in the Venetian Village canal area and many residents with Restore Our Waterways have operated the machine. She said she also has enjoyed using the machine, it does a wonderful job, and if any Board member wants to run the machine to let her know. Secondly, she said she once worked for Eco-Systems, recently attended their Christmas party and talked to the engineers about their agricultural projects. They told her that they had met Mr. Lumbard and were very impressed with the NuRF. Thirdly, she asked that staff send an e-mail when a job opening occurs at the Water Authority and give them a brief description or a link to an actual website page. She stated she and other members of the Board have contacts and may be able to assist in finding a good fit for an open position.

Ms. Fullerton asked if the Board received four comment letters dated in 2002 from The Alliance to Protect Water Resources, Inc. having to do with the Green Swamp and sand mining. She stated the Board received these letters because Ms. Bystrak is interested in this issue and this item will soon come before the Board of County Commissioners and possibly the Water Authority Board in the future. She stated in 2000, Save Our Lakes Committee, and now APWR, sent letters explaining how important it is to protect the Green Swamp from sand mining and is evidence in what the Water Authority has done in the past starting with Lake Lowery.

Chairman Farner said he is very humbled and honored to have been elected chairman and will do the best possible job. He stated the Water Authority is a wonderful agency, has the best intentions and is the one getting the job done. He said he believes not only in Board cooperation but with other agencies and agrees the Water Authority should ask other agencies for support, assistance, and things that we will need in the future. He said it is very self rewarding when recognition and confidence is received from the Board and he believes each member will get a chance at being chairman if that is what they want. He wished everyone a Merry Christmas and asked them to be careful.

Mr. Harris congratulated Chairman Farner and said he looks forward to his leadership. He mentioned that at last month's meeting, Ms. Bystrak asked how much money remained in the mini-grant program and that she wanted this item included on a future agenda. Secondly, he reported there is a meeting set with school officials at the NuRF site January 6th at 1 p.m. He has already given school officials information on the program and school officials are quite excited. He suggested that Ms. Burgos or another member of staff might want to update the school officials at that meeting. Thirdly, he said it is an honor and pleasure to work on the Board and with staff and he applauds Mr. Perry for the recognition and service awards he distributed at the beginning of this

meeting because it is very important. He remarked that he believes that the Board needs to support staff and their salaries more than having stonework on the new office.

11. BOARD MEMBER ITEMS FOR FUTURE AGENDA

No further items were mentioned.

12. INFORMATION ITEMS

a. Staff Report

No comments were made.

b. Monthly Financial Reports – November 2009

No comments were made.

13. ANNOUNCEMENT OF UPCOMING MEETINGS AND EVENTS

- Board Meeting – Wednesday, January 27, 2010 (3:30 p.m.) BCC
Chambers/Admin. Building

14. ADJOURNMENT

The meeting was adjourned at approx. 7:25 p.m.

Linda Gavin, Recording Secretary

Neil Kelly, Secretary – Treasurer

Keith Farner, Chairman