GOVERNING BOARD MONTHLY MEETING
AGENDA
February 9, 2017
9:00 AM
Seminole Tribe of Florida
Hollywood Seminole Indian Reservation
Hollywood, FL 33024

FINAL DRAFT

1. Call to Order - Dan O'Keefe, Chairman, Governing Board
2. Pledge of Allegiance - Dan O'Keefe, Chairman, Governing Board
3. Welcome Remarks - Seminole Tribe of Florida
4. Color Guard and Traditional Song - Seminole Tribe of Florida
5. Agenda Revisions - Tia Barnett, Director, Board & Executive Services
6. Agenda Item Abstentions by Board Members
8. Big Cypress Basin Board Report - Rick Barber, Chairman
9. Project & Lands Committee Report - Melanie Peterson, Chairman
10. Audit & Finance Committee Report - Mitch Hutchcraft, Chairman
11. Consider Approval of the Minutes for the January 12th Governing Board meeting

Consent Agenda

12. Public Comment on Consent Agenda Items
13. Move Consent Agenda Items to Discussion Agenda
14. Board Comment on the Consent Agenda

15. Waivers for Water Resource Advisory Commission members pursuant to Section 112.313, Florida Statutes

16. Regulatory Consent Agenda (Regulation, staff contact, Jill Creech, ext. 6814)

Conservation Easements and Releases

Agenda Item Background: Collier County
WCI Communities, LLC, requests a partial release of 2.32 acres for a project known as Touchstone parcel addition to Tiburon. The release of 2.32 acres will be offset through the purchase of 5.59 mitigation bank credits. The release is to accommodate the construction of an access road for the adjacent Pelican Marsh East development, which was reviewed concurrently under Application No. 150604-14, Permit No. 11-03702-P. Approximately 43.31 acres will remain preserved under the existing recorded easement for the Conservation Area.

Recommended Action:
Approve the partial release of a recorded conservation easement for a project known as Touchstone Parcel Addition to Tiburon (Application No. 151008-29, Permit No. 11-0158-P-02).

Agenda Item Background: Osceola County
AV Homes, Inc., requests a release of 0.91 acres for a project known as Village Shoppes at Bellalago. The request to release of 0.91 acres is from a recorded conservation easement. No offset mitigation is required as the isolated wetland within the release area is less than half an acre in size and was not used as mitigation. The partial release is to allow for development of a retail shopping area. Wetlands account for 0.26 acres and upland buffer accounts for 0.65 acres of the release area. The original conservation easement was used to address secondary impacts and included several other parcels, totaling 5.62 acres. After this release, the conservation easement will total approximately 4.71 acres.

Recommended Action:
Approve the partial release of a recorded conservation easement for a project known as Village Shoppes at Bellalago (Application No. 160928-6).

17. Right of Way Consent Agenda (Field Operations & Land Management, staff contact, Joel Arrieta, ext. 2867)

Agenda Item Background: Osceola County
Florida Home Construction of Central Florida, Inc. (Application Number 14-0424-1) requested a Right of Way Occupancy Permit and related waiver of the District Criteria to construct a private residential marina within the west right of way of the C-33 canal. The applicant is no longer the contract purchaser of the land lying adjacent to the canal.

Recommended Action:
Deny request by Florida Homes Construction of Central Florida, Inc. (Application Number 14-0424-1) for a Right of Way Occupancy Permit and related waiver of District Criteria.
Agenda Item Background: Miami-Dade County
District rules specify that an unencumbered 40-foot wide strip of right of way, as measured from the top of bank landward, is needed for the District to perform its routine operations and maintenance activities. In the area where the District recently completed the C-4 Flood Berm Project, District staff has determined that relaxation of the criteria is appropriate for future Right of Way Occupancy Permit Applications as the project established a workable maintenance area. The area under consideration in this proposed relaxation is located along the north right of way of C-4 Canal beginning at S.W. 87th Avenue continuing westerly to S.W. 92nd Avenue in Miami Dade County, Section 4, Township 54 South, Range 40 East, and more specifically includes that portion of the north right of way lying outside or north of the proposed project area for the recently completed C-4 Flood Berm project.

Recommended Action: Approval to waive, for future Right of Way Occupancy Permit Applications, the requirement contained in District Rules which specifies that an unencumbered 40 foot wide strip of right of way, as measured from the top of bank landward, is needed for the District to perform its routine operations and maintenance activities. This proposed relaxation is located along the north right of way of C-4 Canal beginning at S.W. 87th Avenue continuing westerly to S.W. 92nd Avenue in Miami-Dade County, Section 4, Township 54 South, Range 40 East.

18. Release of Reservations (Real Estate, staff contact, Stephen M. Collins, ext. 2959)

Agenda Item Background:
The District has certain reserved rights to construct canal and road right of ways, and mineral rights, together with the right of ingress, egress and exploration. Applications requesting releases of these reservations are routinely received from landowners, attorneys, title companies and lending institutions, because these represent clouds on title. Applications are reviewed by appropriate District staff and applicable local governmental agencies to determine that there is no present or future need for the reservations.

Staff Recommendation:
Staff recommends approval of the following:

Broward County
- Release canal reservations for PPM Capital, LLC, (File No. 18729) for 6.8837 acres
- Release canal reservations for Jerry I. Fishman, Marjorie Schultz f/k/a Marjorie Fishman, Stephen Wander, Robert D. Stein, Trustee of Robert D. Stein Trust dated 2/24/04 and Teri Stein Freelander, Trustee of Teri Stein Freelander Trust dated 8/26/04 (File No. 1-17-1) for .44 acres

Miami-Dade County
- Release canal and road reservations and issue non-use commitment for Marks Brothers, Inc., (File Nos. NUC 1726 and 18727) for 3.99 acres

Palm Beach County
- Release canal and road reservations for 441 Acquisitions, LLC, (File Nos. 18692 and 18693) for 98.481 acres
- Release canal reservations and issue non-use commitment for Howell Brothers Family Limited Partnership, (File Nos. NUC 1727 and 18728) for .4647 acres
- Release canal and road reservations and issue non-use commitment for Nicholas A. Visconti, Sr. and Josephine S. Visconti, (File Nos. NUC 1728 and 18730) for 5 acres

Recommended Action:
Resolution No. 2017 - 0201  Release canal and road reservations, and issue non-use commitments.

19. Amend Lease Agreement with Signature Flight Support Corporation (Field Operations & Land Management, staff contact, Joel Arrieta, ext. 2867)

Agenda Item Background:
Flight Operations supports District functions including regulatory compliance, water quality monitoring, operations and maintenance, and research activities throughout the District’s 16-County region. Maintaining the existing lease will provide uninterrupted service with no impacts to ongoing operations. This 2-year lease with one 1-year renewal option was executed December 2014 in the amount of $126,942. Signature Flight Corporation declined to execute the 1-year renewal option. As a result, Amendment No. 1 was negotiated which increases the contract period by 2-years with two 1-year renewal options.

Recommended Action:
Resolution No. 2017 - 0202 Amend the contract term by 2-years with two 1-year renewal options with Signature Flight Support Corporation, for lease space in an amount of $352,215.

20. Mowing Contracts - Hendry, Miami-Dade & Palm Beach Counties (Field Operations & Land Management, staff contact, Joel Arrieta, ext. 2867)

Agenda Item Background:
Mowing of the Right of Ways is required to ensure that vegetation is controlled at a manageable height and will uphold the operational integrity of the District’s flood control system.

A. Hendry and Palm Beach County Area Mowing Services - This project for the Clewiston Field Station area including Hendry and Palm Beach Counties covers approximately 17,732 acres to be mowed annually.

Recommended Action:
Resolution No. 2017 - 0203 Enter Into a 3-year contract with two 1-year renewal options with James L. King and Associates, Inc., the lowest responsive and responsible bidder, for mowing services in Hendry and Palm Beach Counties, in an amount not-to-exceed $307,065 for a total contract amount not to exceed $1,773,200. (Contract No. 4600003622)

B. Miami-Dade County Levee and Canal Bank Mowing Contract - This Miami-Dade County project covers approximately 550 acres to be mowed annually. Amendment 4 to Contract No. 4600002812 extends the contract period by 17 months and increases the contract value by an amount not to exceed $102,095.47 for a total revised contract amount not to exceed $515,950.27.

Recommended Action:
Resolution No. 2017 - 0204 Amend the contract term by 17 months with Toler Enterprises, Inc. for levee and canal bank mowing, in an amount not to exceed $102,095.47 for a total revised contract amount not to exceed $515,950.27. (Contract No. 4600002812)
C. Palm Beach County Levee and Canal Bank Mowing Contract - This project for the West Palm Beach Field Station area, covers approximately 720 acres to be mowed annually. Amendment 4 of Contract No. 4600002810 extends the term by 18 months; and increases the contract value by an amount not to exceed $126,751.32 for a total revised contract amount not to exceed $459,451.32.

**Recommended Action:**
Resolution No. 2017 - 0205 Extend the contract with Toler Enterprises, Inc. for levee and canal bank mowing by 18 months, in an amount not to exceed $126,751.32 for a total revised contract amount not to exceed $459,451.32.
(Contract No. 4600002810)

21. Amend Rules 40E-10.041, 40E-10.051 and 40E-10.061, F.A.C., Water Reservations, to delete language found invalid by an administrative law judge in Department of Administrative Hearings (DOAH) Case No. 14-1329RP (Water Resources, staff contact, Terrie Bates, ext. 6952)

**Agenda Item Background:**
During the 2014 rulemaking effort to reserve water for the Caloosahatchee River (C-43) West Basin Storage Reservoir Project (C-43 Reservoir), the District included language stating: “all presently existing legal uses of water shall be protected so long as such use is not contrary to the public interest.” The inclusion of this language was challenged in DOAH Case No. 14-1329RP. The administrative law judge (ALJ) determined the language was invalid, stating that “[e]xisting legal uses are presumed not contrary to the public interest unless and until the District determines otherwise.” The ALJ went on to state that while the District “can make a ‘not contrary’ determination,” it cannot do so prospectively for the duration of a permit.

Language similar to that found invalid in C-43 Reservoir reservation case exists in the water reservations for Picayune Strand, Fakahatchee Estuary, North Fork of the St. Lucie River, and Nearshore Central Biscayne Bay, in subsections 40E-10.041(1) and (2), 40E-10.051, and 40E-10.061(2), F.A.C., respectively. The Governing Board authorized staff to publish a Notice of Proposed Rule on November 10, 2016, which was published in the Florida Administrative Register on January 12, 2017. No new consumptive use permitting criteria, new or additional permit analysis, or restriction of the allocation of surface water is proposed.

**Recommended Action:**
Amend Rules 40E-10.041, 40E-10.051 and 40E-10.061, F.A.C., Water Reservations, to delete language found invalid by an administrative law judge in DOAH Case No. 14-1329RP.

22. 2017 Annual Update of the Florida Forever Work Plan (Real Estate, staff contact, Stephen M. Collins, ext. 2959)

**Agenda Item Background:**
Section 373.199, Florida Statutes, requires the District to develop a Five-Year Work Plan identifying eligible projects described within that Statute. The Florida Forever Work Plan, 2017 Annual Update reports on acquisitions completed during the year together with modifications or additions to the Plan, and includes a list of any lands surplused and the amount of compensation received for the period of Fiscal Year 2015-2016. The update is contained in Chapter 6, Volume II of the 2017 South Florida Environmental Report.

**Recommended Action:**

23. Adopt Five-Year Capital Improvements Plan; Included in the Project & Lands report (John P. Mitnik, Chief Engineer)

Agenda Item Background:
Section 373.536(6), Florida Statutes, requires the District to develop a Five-Year Capital Improvements Plan (CIP). Pursuant to Section 373.036(7), the Fiscal Year 2016-2017 Five-Year CIP will be published in the 2017 South Florida Environmental Report, Volume II, Chapter 4. This plan identifies the following: the capital projects, adopted budget and adjusted projection based on updated cash flow projections. It also captures planned future capital projects for the period of Fiscal Year 2017-2018 through Fiscal Year 2020-2021.

Recommended Action:
Resolution No. 2017 - 0207  Adopt the Fiscal Year 2016-2017 Five-Year Capital Improvements Plan.

24. Amend Fiscal Year 2016-2017 Adopted Budget in the Amount of $350,000; enter into Agreements with Florida Department of Environmental Protection; and with the City of Clewiston for S-169/C-21 Bridge Replacement. (Administrative Services Division, staff contact, Dorothy Bradshaw, ext. 2823 and John P. Mitnik, Chief Engineer)

Agenda Item Background:
The Florida Department of Environmental Protection’s Fiscal Year 2016-2017 included $350,000 for the S-169/C-21 project. These funds were not included in the District’s Fiscal Year 2016-2017 Adopted Budget. To execute the appropriated funds the District will need to amend the Fiscal Year 2016-2017 budget to recognize the funding and enter into two separate agreements pertaining to these funds: Grant agreement with the Florida Department of Environmental Protection (Contract No. 4600003613) and enter into a contract with the City of Clewiston (Contract No. 4600003609) on or before April 1, 2017. The relocation project is part of the rehabilitation of Central and South Florida Flood Control Project, structures that have been evaluated and determined to no longer provide sufficient levels of service for either flood protection or water supply and are deemed to be well past their life expectance.

Recommended Action:
Resolution No. 2017 - 0208  Implement Section 5 Specific Appropriation 1590C of the 2016 Florida Legislature General Appropriations Act for Grants and Aids to Local Governments and Nonstate Entities in the amount of $350,000 in nonrecurring funds from the General Revenue Fund; and authorize the Executive Director or Designee to execute agreements at no cost to the District with the Florida Department of Environmental Protection (Contract No. 4600003613) and the City of Clewiston (Contract No. 4600003609); and authorize an amendment to the Adopted Fiscal Year 2016-2017 budget.
25. Commercial Wireless Telecommunication Lease Agreement for Tower Antenna Space with ATC Management (Information Technology, staff contact, Duane Piper, ext. 2638)

**Agenda Item Background:**
The District owns and maintains more than sixty communications towers throughout its boundaries. These towers present a leasing opportunity for telecommunications use. In November 2016 the Board authorized staff to enter into an agreement with ATC Management, LLC. As a result, the District entered into negotiations with ATC Management Sites, LLC to lease radio operation rights on the communication towers. It is appropriate at this time to increase the terms to a 20-year period with one 10-year renewal option to complete negotiations with ATC. Compensation to the District shall be at 50 percent of gross revenues.

**Recommended Action:**
Resolution No. 2017 - 0209 Amend Resolution 2016-1109 which authorized an agreement with ATC Management Sites, LLC for commercial wireless telecommunications for 10-years, with two 1-year renewal options to a 20-year agreement with one 10-year renewal option. ATC Management Sites, LLC will pay the District a percentage of gross revenues for use of the leased space. (Contract No. 4600003580)

26. Board Vote on Consent Agenda

27. Board Comment

**Discussion Agenda**

28. Technical Reports
   A. Water Conditions Report - John P. Mitnik, Chief Engineer
   B. Ecological Conditions Report - Terrie Bates, Division Director, Water Resources
   C. Broward County Project Spotlight - Lucine Dadrian, Section Administrator, Operations, Engineering & Construction

29. C-51 Reservoir Operating Agreement (Executive Office, staff contact, Len Lindahl, ext. 6283)

**Agenda Item Background:**
Since 2006, government agencies in the Lower East Coast have been collaborating in the development of the proposed C-51 Reservoir. In 2013, the Governing Board agreed to enter into a Memorandum of Understanding (MOU) between Palm Beach Aggregates, Inc. and the District. At that time, the District acknowledged that it is in the best interest of the public to operate the proposed C-51 Reservoir in order to assure the integration of the C-51 Reservoir with the operations of the regional system. The MOU contemplates that the parties will develop a written operations agreement. This item summarizes the proposed O&M Agreement for consideration by the Board.

**Recommended Action:**
Resolution No. 2017 - 0210 Enter into an Operation & Maintenance Agreement with Palm Beach Aggregates, LLC.
30. District Land Exchange & Surplus - Hendry & Palm Beach Counties; Included in the Project & Lands report (Real Estate, staff contact, Stephen M. Collins, ext. 2959)

A. Agenda Item Background: Hendry County Surplus of 67.5 acres
In 2013, the Governing Board directed staff to analyze options for disposal of certain lands. Tract 34100-104 containing 67.5 acres, more or less, located in Hendry County, was included in the Board’s direction. The Tract was originally acquired for the U.S. Army Corps of Engineers (USACE) for use as a spoil dredge site in connection with the widening of the Caloosahatchee River. The USACE no longer requires use of this site for collection of spoil/dredge material. Staff further analyzed the options for disposal of the Tract, obtained an ecological assessment, and conducted a public meeting on February 8, 2017, regarding the surplus and sale of the Tract. The ecological assessment did not identify any matters of concern. The site currently does not have access to the public road. An appraisal valued the Tract at $540,000 with the assumption that an entrance road will be constructed prior to sale. It is appropriate at this time for the Tract to be declared surplus, without reservation of phosphate, minerals, metals and petroleum and be offered to the public for bid to be sold for the highest price obtainable, but in no event less than appraised value.

Recommended Action:
Resolution No. 2017 - 0212 Declare surplus lands in Hendry County of 67.5 acres, more or less. The property will be sold without reservations of interest under Section 270.11, Florida Statutes. The property will be offered to the public for bid to be sold for the highest price obtainable but not less than the appraised value.

B. Agenda Item Background: Hendry County Land Exchange of 10 acres
In 2013, the Governing Board directed staff to analyze options for disposal of certain lands. Tract 34100-103 containing 10 acres, more or less, located in Hendry County, was included in the Board’s direction. The Tract was originally acquired for the U.S. Army Corps of Engineers (USACE) for use as a spoil dredge site in connection with the widening of the Caloosahatchee River. The USACE no longer requires the use of this site for collection of spoil/dredge material. Staff further analyzed the options for disposal of the Tract, obtained an ecological assessment, and conducted a public meeting on February 8, 2017, regarding the surplus and exchange of the Tract. The ecological assessment did not identify any matters of concern. The site currently does not have access to the public road. Hendry County would like to enter into an Agreement with the District offering in-kind services that include permitting, constructing a driveway connection, and site clearing of 0.5 acres on the above referenced 67.5-acre tract in exchange for 10 acres at the northeast corner of the original parcel. The transfer deed will include a restriction limiting future use of the property for public safety and recreation facilities provided by Hendry County

On January 10, 2017, the Hendry County Board of County Commissioners approved the proposed exchange. A current appraisal values the 10-acre Tract at $90,000. It is appropriate at this time to exchange the 10 acres for in-kind services which, when completed, will increase the market value of the remaining 67.5 acres by over $100,000.

Recommended Action:
Resolution No. 2017 - 0211 Exchange District lands containing 10 acres, more or less, to Hendry County for in-
C. **Agenda Item Background:** Palm Beach County Surplus of 97.01 acres

In 2013, the Governing Board directed staff to further analyze the options for disposal of certain lands. Tract W9100-179 containing 97.01 acres, more or less, located in Palm Beach County was included in the Board’s direction. The Tract was originally acquired in 2002 utilizing District ad valorem funds and funds from the Department of Interior. Staff further analyzed the options for disposal of the Tract, obtained an ecological assessment, and conducted a public meeting on February 8, 2017 regarding the surplus and sale of the Tract. The ecological assessment did not identify any matters of concern. An appraisal establishing a value of $4,800,000 for the Tract was also obtained. It is appropriate at this time for the Tract to be declared surplus, without reservation of phosphate, minerals, metals and petroleum and be offered to the public for bid to be sold for the highest price obtainable, but in no event less than appraised value.

**Recommended Action:**
Resolution No. 2017 - 0213 Declare surplus lands in Palm Beach County containing 97.01 acres, more or less; the property will be sold without reservation of interests under Section 270.11, Florida Statutes; the property will be offered to the public for bid to be sold for the highest price obtainable but not less than the appraised value.

31. District Cattle Lease Policy Update *(Included in the Project & Lands report (Real Estate, staff contact, Stephen M. Collins, ext. 2959)*

**Agenda Item Background:**
This item is for Board discussion. The Governing Board Leasing Policy Section 140-85 (f) (1), contains provisions for leasing District lands for the purpose of cattle grazing. In 2016 the Governing Board revised Section 140-85 (f) (1) c, which provides for the extension of leases beyond their initial 10-year term for an additional 5-year term based on District staff’s annual performance evaluations and priorities as determined by the Governing Board. The use of cattle grazing as a land management tool on conservation lands is likely to occur over a longer period of time than on project lands where cattle grazing is an interim use. Different lease extension terms may be appropriate.

**Recommended Action:**
Resolution No. 2017 - 0214 Modify the Leasing Policy contained in Section 140-85 (f) (1) c., based on Board discussion.

32. B-66 Tower and Shelter Replacement Project; *(Included in the Project & Lands report (Operations Engineering & Construction, staff contact, Lucine Dadrian, ext. 2685)*

**Agenda Item Background:**
The project consists of constructing the B-66 Tower and IT Shelter Replacement. The B-66 communications site serves as the core of the District’s microwave communications network, relaying critical watershed, control structure and pump station data from the field.

It is an essential communications site within the District, serving facilities in all of its 16
The existing B-66 communication site is located near the southwesterly portion of the District, at 3301 Gun Club Road, in West Palm Beach. It was originally constructed in 1975 and lacks the capacity to support additional communications equipment requiring installation. The proposed replacement tower and building will be located approximately 100 feet to the northeast of the existing tower. It is appropriate at this time to enter into a contract with the lowest responsive and responsible bidder.

**Recommended Action:**
Resolution No. 2017 - 0215 Enter into a 366-day contract with Expert Construction Managers, Inc., the lowest responsive and responsible bidder, for the construction of the B-66 Tower and Shelter Replacement Project, in the amount of $2,067,000. (Contract No. 4600003620)

33. **Lainhart and Masten Dam Repairs Project** Included in the Project & Lands report (Operations, Engineering & Construction, staff contact, Lucine Dadrian, ext. 2685)

**Agenda Item Background:**
The Lainhart and Masten Dam Repairs Project located in Palm Beach County is necessary to protect the ecologic and hydrologic integrity of the Northwest Fork of the Loxahatchee River, provide safe access to the public and stabilize the structures to address existing functional deficiencies. The work consists of stabilization, repair, and refurbishment of the dams, including soil stabilization under and around the dams to reduce seepage and replacement of the canoe/kayak portages along both dams.

**Recommended Action:**
Resolution No. 2017 - 0216 Enter into a 500-day contract with Interlaken, Inc., the lowest responsive and responsible bidder, for the construction of the Lainhart and Masten Dam Repairs Project, in the amount of $2,549,750. (Contract No. 4600003621)

**Staff Reports**

34. Monthly Financial Report - Dorothy Bradshaw

35. General Counsel's Report - Brian Accardo

36. Executive Director's Report - Peter Antonacci

37. Board Comment

38. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2016), to discuss strategy related to litigation expenditures and/or settlement negotiations in Larry Robinson v. South Florida Water Management District, EEOC Charge No. 510-2012-03984.

39. Adjourn

Members of the public wishing to address the Governing Board on agenda items which require a vote are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chairman or designee to speak. Governing Board policy limits comments from the public to 3 minutes unless otherwise determined by the Governing Board Chairman. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda. Unless otherwise determined by the Chairman, Board action on Consent Agenda items moved to the discussion agenda will occur at or after 9:00 a.m. on Thursday.