

**SEACOAST UTILITY AUTHORITY
REGULAR MEETING**

January 28, 2009
Seacoast Utility Authority Board Room
MINUTES

CALL TO ORDER: 3:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL:

PRESENT: Don Noel, Chair
Robert Weisman, President Pro-Tem
Maria V. Davis, Vice Chair
Joseph Lo Bello, Member
Ron Ferris, Member

ALSO PRESENT: Nat Nason, General Counsel
Rim Bishop, Executive Director
Mary Ann Stiles, Authority Clerk

*****THE FOLLOWING ITEMS WERE PLACED ON THE CONSENT AGENDA*****

APPROVAL OF MINUTES FOR MEETING OF DECEMBER 17, 2008

Move to approve the minutes for meeting of December 17, 2008.

APPROVAL OF INVOICES

Move to approve invoices as follows: Howard C. Osterman, Inc. in the amount of \$450.00; Nason, Yeager, Gerson, White & Lioce in the amounts of \$11,404.77; \$16,229.42; \$17.50; \$653.71; and \$43.00; and Boyle Engineering Corporation in the amounts of \$15,527.00; \$7,436.00; \$4,794.00; \$4,883.29; and \$2,087.00; for a total of \$63,525.69.

SUPPLEMENTAL RECLAIMED WATER AGREEMENT

Move to approve execution of a Class "A" Supplemental Reclaimed Water agreement for the project known as Waterway Recreation Association, Inc. as recommended by staff.

OKEECHOBEE LANDFILL USE AGREEMENT

Move to approve landfill utilization agreement with Waste Management, as recommended by staff.

PURCHASE OF FIVE (5) VEHICLES

Move to approve the purchase of five (5) vehicles at a total cost of \$171,962.00 at competitively bid Florida Sheriff’s Association and Florida Association of Counties contract prices, as recommended by staff.

MOTION

Board Members Lo Bello/Davis moved to adopt the Consent Agenda.

The motion carried unanimously.

*******END OF CONSENT AGENDA*******

WATER TREATMENT CHEMICALS

MOTION

Board Members Davis/Lo Bello moved to award the following chemical purchase contracts/extensions based on lowest responsive bids to those firms whose bids will best serve the public interest, as recommended by staff:

<u>Water Chemicals</u>	<u>2009 Contract</u>	<u>Recommended Award</u>
Ammonia	\$.67/lb	Tanner Industries
Quicklime	\$228.91/ton	Carmeuse North America
Liquid Chlorine	\$363..85/ton	Allied Universal Corp.
Potassium Permanganate		
Bulk	\$2.15/lb	Carus Chemical
Packaged	\$2.28/lb	Carus Chemical
Polymer (Primary)	\$0.748/lb	Sterling Water Tech.
Polymer (Secondary)	\$1.95/lb	Fort Bend Services

JANITORIAL SERVICES CONTRACT

MOTION

Board Members Lo Bello/Davis moved to terminate Janitorial Services Contract with Magic Clean, Inc., as recommended by staff.

The motion carried unanimously.

MOTION

Board Members Lo Bello/Davis moved to award Janitorial Services Contract to Sonshine Cleaning, who was the second lowest responsive bidder and whose bid will best serve the public interest, in the amount of \$2,403.58 monthly or \$28,842.96 yearly.

The motion carried unanimously.

ELECTION OF OFFICERS

Chair Don Noel opened the floor for nominations.

MOTION

Board Members Davis/Ferris nominated Don Noel as Chair.

The motion carried unanimously.

MOTION

Board Members Ferris/Davis nominated Bob Weisman as President Pro-Tem and Maria Davis as Vice Chair.

The motion carried unanimously.

OTHER BUSINESS

COMMENTS FROM BOARD MEMBERS

Vice Chair Maria Davis stated that every time she comes to Seacoast for assistance or concerns, she has had outstanding service and she appreciates and thanks Rim Bishop and staff for this.

Board Member Ron Ferris stated that he had contact with one of the residents of Palm Beach Gardens regarding the surcharge.

Board Member Ron Ferris also noted that he too is very supportive of Seacoast in so many ways and also thanks staff.

Chair Don Noel complimented Daniela Russell on the fine job on financials this month and he appreciates her extra effort on his behalf.

ENGINEERING REPORT

Engineer's Report included in Board package. Bruce Mowry was present for questions. None were asked at this time.

STAFF REPORT

GROUND STORAGE TANK @ HOOD ROAD WATER TREATMENT PLANT

Executive Director Rim Bishop told the Board if they are interested in seeing a 2 million gallon pre-stressed concrete ground storage tank under construction; the one at the Hood Road Water Treatment Plant is at a very interesting phase. Mr. Bishop stated he would be glad to show anyone who would like to see it after the meeting.

BOND ISSUE

Executive Director Rim Bishop stated that staff has received 90% engineering plans for the membrane plant. Staff will have comments back to the engineer some time next week.

HOOD ROAD WATER TREATMENT PLANT MEMBRANE CONVERSION PROJECT

Executive Director Rim Bishop stated that staff has also received the engineering report that will be included in the official statement when Seacoast goes out to issue bonds. Staff will have comments back to CDM this week. It is still staff's plan to send out bid requests for this membrane treatment plant in early April and open them sometime at the end of May or beginning of June. Staff would like to present a recommendation for rates to the Board at that point.

SFWMD WATER USE PERMIT RENEWAL

Executive Director Rim Bishop stated that SFWMD staff made a presentation to the Loxahatchee River Management Coordinating Council on Seacoast's permit on Monday afternoon. The reason that the Council is involved or interested in this permit is because their mission is to protect and preserve the Loxahatchee River, typically the northwest fork of the Loxahatchee River, and they want to be sure that the SFWMD doesn't allocate any water that would otherwise be used to re-nourish the river. Mr. Bishop stated that he believes they did a good job on the presentation and the Council's questions were few. The Council seemed to be satisfied with the presentation.

At present, with regard to the permit renewal, SFWMD proposes roughly a 20% cutback of Seacoast's existing Hood Road Wellfield allocation and assessing a total of 45 functional wetland units mitigation responsibility to Seacoast as part of combined enforcement and permit initiatives. Staff does not agree with either of those totals; staff does not intend to accept them; and staff is negotiating those numbers. If staff cannot get SFWMD to a figure that they are comfortable recommending to the Board, it will be staff's recommendation that the permit be challenged. Mr. Bishop stated that staff does already have authorization to do this, if an acceptable permit is not given by SFWMD or enforcement action is taken that staff does not agree with. Mr. Bishop stated that Attorney Nason may give a further update with regard to this permit.

SFWMD YEAR ROUND IRRIGATION RULE CHALLENGE

Attorney Nat Nason stated that he and Mr. Bishop attended a SFWMD meeting on the proposed year round irrigation restriction rule last week. There was a change to the rule which really didn't do anything for Seacoast; it left utilities like Seacoast on two day a week permanent restrictions. Attorney Nason voiced opposition to this. One thing this rule change did do with regard to certain utilities that had secured permits for 20% alternative water supply and had already built capacity for 20% alternative water supply prior to February 2009; those utilities get a ten year period of time in which they can water three days a week. All of these numbers, in Mr. Nason's view, are arbitrary and capricious and he does not feel they are supportable. As it stands, the SFWMD Board will receive and vote on the staff recommendation on this rule on February 12, 2009. Attorney Nason and staff will attend; they will present Seacoast's view on why it is not an appropriate rule for many different reasons. If Seacoast doesn't get at least three days a week water restrictions, then it is staff's intention to file an Administrative protest to the rule. Mr. Nason stated that there are other utilities that will likely join Seacoast on that. Bottom line is that we are coming down to the last period of activity and there is some speculation that the SFWMD may go to three days a week for all, but he does not agree with that speculation. Mr. Nason feels we are going to be looking at some variation of this rule which keeps us to two days a week and if that happens, Seacoast is prepared to challenge and will challenge.

As far as the permit, Attorney Nason stated that not much has changed there. The bottom line with that is that there are two things that SFWMD is looking to do on parallel tracks; they initially intend to initiate an enforcement action against the claim that Seacoast caused historical harm on Briger Tract to the tune of approximately \$4.5 million. Staff does not agree with this at all and Seacoast professionals tell staff that the potential total harm out at Briger is somewhere in the neighborhood of 3 mitigation credits; big difference from what SFWMD believes. Although staff suspected it, the first time staff officially heard that SFWMD intended to cut Seacoast back on the Hood Road Wellfield was at the Loxahatchee meeting that Mr. Bishop told them about. That is also troublesome to staff as SFWMD intends to cut Seacoast's wellfield back to its historical use of 10.8 MGD, while Seacoast's permitted use is 13.8 MGD. For its additional water needs, Seacoast would have to go to the Floridan Aquifer, which is more expensive water to treat. With regard to how that permit works out, it could be something staff can live with because Seacoast has some declining per capita use, but staff believes that there is still an abundant source of surficial water that should be made available to Seacoast for utilization. At this point in time, depending upon how that situation works out, staff may be challenging the permit as well. Mr. Nason stated that his gut tells him we will probably be challenging both the enforcement actions as well as the permit at the same time because the issues are much entwined in regard to the wetland issues out there.

Vice Chair Maria Davis asked Attorney Nason to explain what mitigation credits are and what they constitute? Attorney Nason explained that SFWMD tried to quantify a measurement of how much a natural wetlands system has been harmed, and SFWMD translate that harm into artificial numbers called mitigation credits. SFWMD does that by saying here is a unit of harm and that is equal to an artificial unit of mitigation credit. In the marketplace, you can buy these mitigation credits from people who have put aside property for the purpose of establishing an environmental

preserve. Attorney Nason discussed this in a little more detail. Attorney Nason feels that SFWMD is pushing Seacoast by stating “you can’t find mitigation credits? Write a check to SFWMD and we will take the money and spend it on what we want to spend it on” – that doesn’t sit well with Attorney Nason. Attorney Nason stated that he has attempted on numerous occasions with Mr. Bishop and Ed Weinberg, the Authority’s chief consultant on this, to try to determine what the logic is behind this \$4.5 million number and some logic behind the rule itself. Attorney Nason stated that he has read the rules and he feels comfortable with his understanding of what it says. To this day, SFWMD has not been able to satisfactorily explain to him how they get to those numbers.

Chair Don Noel asked that at \$100,000.00 each, how much land would constitute an environmental preserve and can anyone buy land and establish your own environmental preserve? Attorney Nason deferred the question to Director of Operations Bruce Gregg. Mr. Gregg explained that they are called mitigation banks and they have to be approved by Florida Department of Environmental Protection. The approval process is very rigorous. It was determined that it would not be cost effective for the Authority to do this and even if it was, it would take too long to be of value in this case. More discussion took place.

Board Member Joe Lo Bello stated that is safe to say that the difference is a very large number, like \$4.2 million. Mr. Bishop and Attorney Nason stated it is a huge difference. Mr. Bishop stated that it is also safe to say that the numbers that SFWMD has given Seacoast are not their final numbers. On that basis, staff continues to press SFWMD to have them demonstrate where they are getting their numbers. If SFWMD insists on staying with their harm assessment as has been presented to Seacoast, then they will have to defend that in an Administrative proceeding. More discussion took place.

Mr. Howard Osterman stated that the Board might notice that in all of the hearings that SFWMD has had, not one credit and not one benefit for the 100% reuse that Seacoast enjoys – not one benefit is given by SFWMD for this as an alternate water supply, which it certainly is.

Executive Director Rim Bishop stated that they presented that to SFWMD staff last Friday after that observation to them. What is the benefit environmentally and for water resource perspective, at least from Seacoast’s access to water resource, of all the money that Seacoast customers have invested in the reclaimed water system? Good thing to do, recycle, conceptually, but as a practical matter, what is it? The only response Mr. Bishop received was after the meeting, off the record, and he will put it on the record now. The response Mr. Bishop received was that Seacoast charges for the reclaimed water. Typically, reclaimed water systems don’t fully pay for themselves, which is a matter of record, rates that were set in 2006 have clearly identified subsidy that the water and sewer rate payers are providing to support the actual cost of owning, operating, maintaining, renewing and replacing of the reclaimed water system because you cannot sell it at its actual value. Therefore, Seacoast does have lost cost and its water consumers are, in fact, shelling out money to support the reclaimed water system and Seacoast feels there should be some benefit in terms of access to the water resource, at minimum, for that. That was end of the conversation. Attorney Nason pointed out that a good portion of Seacoast’s reclaimed water does serve to recharge Seacoast’s wellfields. Mr. Bishop added that the illustration given last Friday was that the Town of Jupiter, who is about 50% Floridan Aquifer

alternative water supply and would benefit from this proposed change in the rule, but that is because Jupiter got its permit before February 12, 2009. Now, if Seacoast decided on February 13th that it wanted to hypothetically, scrap its entire surficial aquifer source and go 100% Floridan, under the presently drafted rule, Seacoast would not get that third day a week benefit because it happened after February 9th and that is support of Mr. Nason's point that these are arbitrary favors, being made up to achieve some agenda as opposed to preserve water resources for the environment. The Board has been clear to staff and Seacoast does not intend to stand by and let it happen.

COMMENTS FROM THE PUBLIC

None

ADJOURNMENT

There being no further business to come before the Authority, Board Members Davis/Lo Bello moved to adjourn at approximately 3:23 PM.

APPROVAL:

DON NOEL, CHAIR

MARIA V. DAVIS, VICE CHAIR

ROBERT WEISMAN, PRESIDENT PRO-TEM

RON FERRIS, MEMBER

JOSEPH LO BELLO, MEMBER

ATTEST:

MARY ANN STILES, AUTHORITY CLERK