

BOARD OF COUNTY COMMISSIONERS

PUBLIC WORKSHOP

PRESENTED BY

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

JUNE 6, 2007

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The Board of County Commissioners of Indian River County, Florida, met in a Public Workshop at the County Commission Chambers, 1840 25th Street, Vero Beach, Florida, on Wednesday June 6, 2007 at 2:00 p.m. The purpose of this Workshop was to discuss the proposed land exchange between Berry Groves, Pat Corrigan Family Partnership and Hugh Corrigan Family Partnership. Present were Vice Chair Sandra L. Bowden, Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan. Chairman Gary C. Wheeler arrived at 4:18 p.m. Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, and Deputy Clerk Leona Adair Allen.

Proposed Land Exchange between the St. Johns River Water Management District (SJRWMD) and Corrigan Family Partnerships – Robert Christianson, Director, SJRWMD Department of Operations and Land Resources

1. CALL TO ORDER

Vice Chair Bowden called the meeting to order at 2:01 p.m. and announced that Chairman Wheeler was out-of-town attending another meeting and would be arriving later.

2. PLEDGE OF ALLEGIANCE

Vice Chair Bowden led the Pledge of Allegiance to the Flag.

Vice Chair Bowden announced that at the June 5, 2007, Board of County Commissioners' Meeting they deferred Item 9.B.1 - Citrus Springs Homeowners' Association, to today's Agenda, which she wanted to be heard under Item 5 - Public Comments.

On Motion by Commissioner Davis, SECONDED by Commissioner O'Bryan, the Board by a 4-0 vote (Chairman Wheeler absent) approved the addition to today's Agenda.

3. PRESENTATION BY ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

Robert Christianson, Director, SJRWMD Department of Operations and Land Resources, through a slide presentation, discussed the SJRWMD's proposed land exchange between Berry Groves property (Sand Lakes tract), Pat Corrigan Family Partnership, and Hugh Corrigan Family Partnership. He explained that this is the second of two land exchanges that they have been undertaking for a couple of years, to help

realign the ownership of the Water Management District for the benefit of the Upper St. Johns River project. Mr. Christian also revealed that this was the last phase of the project.

Director Christianson outlined the recommendations to be submitted to the SJRWMD governing Board: (1) to determine that the Sand Lakes tract is no longer needed for conservation purposes, (2) to approve the real property exchange, and (3) to settle the dispute involved in this transaction. Through an aerial view site map, Mr. Christianson displayed the 1,265 acre Sand Lakes tract that is the portion of property proposed for exchange to the Corrigan family. He also displayed the L-shaped piece of property on the southwest corner of the Corrigan ranch, which would complete the exchange.

Director Christianson presented a Conservation Needs Assessment where initially they needed to preserve this property for conservation purposes. To determine that the lands are needed for conservation purposes, in accordance with State Statute requirements, SJRWMD's approach was to look at: (1) the *intrinsic conservation value* of the land, (2) the *regional conservation significance* of the property, (3) the *original conservation purpose*, and (4) the *net conservation benefit*. He described how SJRWMD has proceeded and actions taken in each of the four elements listed above.

Commissioner Davis was confused about the criteria that SJRWMD followed to select habitat conservation areas, because the northeast corner of CR 512 and SR 60 is grove land.

Director Christianson was only presenting the results of an analysis and did not have answers for Commissioner Davis; however, he knew that the original mapping/satellite imagery for that area was done in the late 1980's.

Commissioner O'Bryan sought clarification of the wetland areas outlined on the Berry Farms property, and asked whether that was only 8%, and if the section to the east was also wetlands. Mr. Christianson confirmed that it was all wetlands.

Director Christianson responded to further questions from the Board regarding how the map was created, and how many categories of conservation lands SJRWMD had. He characterized the significance of each property, and discussed Biodiversity Hotspots, Greenways Critical Linkages, Regional Conservation Significance, Original Conservation Purpose, Dispute Settlement, and Net Benefits.

Commissioner O'Bryan asked if Mr. Christianson had consulted with the City of Fellsmere on their proposed plans for the Ansin annexation and the amount of wetlands they were going to preserve in that tract. Mr. Christianson had not specifically done so, and Commissioner O'Bryan suggested that the contact be made with Fellsmere, because he believed Fellsmere had outlined considerable acreage in the parcel that was designated for preservation and conservation.

Director Christianson then discussed property acquisition and the uses and purposes for said properties. He did not want to leave the Board with the impression that SJRWMD did not have any conservation objectives for the Sand Lakes property because they did. Approximately three years ago, SJRWMD reached a conclusion that the Berry Groves property overall was surplus to their needs and they began to look for opportunities, such as the transaction being discussed today. He disclosed that SJRWMD did not believe it was necessary to retain the property for conservation purposes.

Director Christianson briefly discussed the Net Conservation Benefits of the Corrigan and Sand Lake properties. Of importance was what they were able to

achieve with the acquisition of the Flowage Easement and Hold Harmless Agreement by obtaining over 7,171 acres of the Corrigan property, which is everything they own west of the I-95. This acquisition gives them the ability to operate the Upper Basin projects, specifically the Blue Cypress Water Management area, which houses a significant population of Snail Kites.

Director Christianson briefly described the two properties to be exchanged and provided data from appraisals that had been done. At the request of Commissioner Davis, Mr. Christianson explained that the Flowage Easement gives them the right to flow water onto the eastern side of the Corrigan property. It also gives the Corrigan the right to build a blockage to stop the water, and the obligation to maintain it. Similarly, if for any reason, water gets onto the 7,171 acres, the District would be held harmless from any claims by the landowners.

Director Christianson clarified for Commissioner O'Bryan the conservation significance between the appraisals and the conservation value map. He explained that the Flowage Easement is required over the entire 7,000 acres because historical records suggested that the St. Johns River surpassed the ten mile ridge and spilled into the Indian River Lagoon.

Charles Lee, Director of Advocacy of Audubon of Florida, through a PowerPoint presentation, disputed Director Christianson's value analysis of the conservation land, having said that the land was no longer needed for conservation purposes. He emphasized that nothing about the property's environment had changed so it should still be the same as when originally acquired. He felt that even though there was once an intention to use it as a reservoir, the reality is, the tract was acquired with the observation that it had conservation value and he thought it should remain that way. He suggested the District budget the funds and buy the 460 acres because he did not want the

conservation property traded to the Corrigan. Director Lee suggested the Board pass a resolution and direct it to the Governing Board of SJRWMD, the Legislative Delegation, Governor Crist, and the Cabinet of the State.

Dr. Richard Baker, Pelican Island Audubon Society, through a PowerPoint presentation expressed how the proposed land exchange would be a bad deal for the County taxpayers. He informed the Board that the last appraisal figures reflected the Corrigan property at \$7,000.00 per acre and the Berry Grove at \$17,000.00 per acre and the Florida Fish and Wildlife Conservation Commission rated it as high wildlife value. Dr. Baker said this was originally purchased for conservation purposes and it is just as valuable now as it was then. He voiced concerns over the Fellsmere annexations and the increased densities. Dr. Baker asked St. Johns to protect its precious conservation land and not give in to the Corrigan.

David Cox also used a PowerPoint Presentation to show that the specifics of the maps do not work well in isolation from one another, and felt the best use of them would be to combine multiple kinds of data sets to triangulate on properties that have the highest value. He said the land does hold conservation value and that it was appropriately designated as such. He did not think the surplusing of the land for the purpose of settling a potential lawsuit was sound public policy. Mr. Cox encouraged the Board to move forward with Mr. Lee's recommendation, and to forward a statement to the Governing Board and Governor Crist stating the County's position.

Vice Chair Bowden called a recess at 3:32 p.m. and reconvened the meeting at 3:43 p.m. with all members present. (Chairman Wheeler was absent).

Bill Kerr, St. Johns Board Member and practicing Biologist, felt that the Board needed to make their decisions based on the best scientific data available. He

assured the Board that the District would use the best scientific data possible to determine the conservation value of the properties to be exchanged. He reminded the Board that it is their responsibility to spend tax dollars as judiciously as possible, that they needed to consider the ramifications, and that they should not ignore the scientific data that will tell them what they can and cannot do.

4. BOARD DISCUSSION

Vice Chair Bowden asked when the scientific data would be completed.

Mr. Christianson reported that it was a detailed assessment and anticipated that it would be released next week. He promised to provide the Board with the information as soon as it became available.

Commissioner Davis asked the County Attorney for clarification regarding the State and Government sovereign immunity cap of \$200,000.00.

County Attorney Collins explained the law as it applied to contract breaches. He said liability sovereign immunity protects government entities, including the State and the subdivisions from liability of over \$100,000.00 to \$200,000.00, per damage event. Attorney Collins noted that there could be recurring claims based on flooding over a period of years, but specified that it would be a separate issue. He further clarified that if the judgment exceeded the dollar amount, the affected parties could always go to the Legislature for additional compensation.

Attorney Collins called attention to the fact that when the County obtains lands that are worth over a half million dollars, the County is required to obtain two

appraisals and the Statute pertaining to the sale or exchange of Governing Board lands only requires one appraisal. He said the appraisal requirement pertains to the lands being sold by the district, and the exchanges of land by the Districts require they equalize the value of the land. Attorney Collins suggested updating the two-year old appraisals and clarified that the requirement of the appraisal to be within 120 days applies to a sale, not an exchange.

5. PUBLIC COMMENTS

Frank Wegel, Vice President of the Friends of St. Sebastian River, said the property was under consideration by the Lands Acquisition Committee when St. Johns asked the County not to go into it with them, that they would do it on their own. He felt that the wildlife corridor that runs along I-95 and connects with the SJRWMD land is of utmost importance. He encouraged the Board to talk with the Fellsmere representatives regarding growth, and suggested amending the ordinances to require larger properties.

5.A. CITRUS SPRINGS – DEVELOPER’S TURNOVER TO HOMEOWNERS’ ASSOCIATION

(Clerk’s Note: This item was a continuation from the Tuesday, June 5, 2007, Board of County Commissioner’s meeting, Item No. 9.B.1.)

Louis Aprile, Villages of Citrus Springs, informed the Board that at yesterday’s Board of County Commissioners’ meeting problems were identified; so today members from the Association returned seeking answers from SJRWMD. He wanted to know if SJRWMD had to sign off on the final plat before the development is turned over to the homeowners. Attorney Collins informed him that they did not and provided him

with the specifics involved. Mr. Aprile wanted to know how the homeowners would know if the County signed off while SJRWMD still had problems, to which Attorney Collins said the County does not sign off prior to turnover. Mr. Aprile asked if the developer could turn it over to the homeowners before St. Johns signed off on it and Attorney Collins said “yes” because when individuals buy property there are recorded documents, deed restrictions and covenants that identify when the turnover would occur, usually after a certain number of lots are sold.

Mr. Aprile addressed the issue of the six houses that are experiencing flooding and said the problem has yet to be resolved by SJRWMD. Attorney Collins said he would have to rely on the engineers, but his understanding is that whenever there are stormwater management issues that require St. Johns permitting, they issue a permit and have conditions not only for the development of the stormwater system but also for the operation of it linking the certain timeframes to comply with operation maintenance. Attorney Collins said the developer is supposed to provide all deeds, contracts, outstanding permits, insurance policies, and warranties to the Association. Administrator Baird added that there could be a cause of action against the developer if this had not been done, and that the turnover from the developer to a Homeowners’ Association has nothing to do with the County. Attorney Collins concluded that typically, all the County requirements are complied with long before turn over because the County requirements for roads, drainage, and landscaping have to be complied with within one year of final plat.

Mr. Aprile voiced concerns and wanted to see the engineer’s certification showing that the slope requirement for their lake was met. He disputed that the lake was graded to the requirement of a 1 to 4 slope because he said it appears to look like cliffs, and insisted it wasn’t due to water erosion, as he had been told. Attorney Collins told

him that if the development is not consistent with the approved plans, then the engineers need to look at it.

Public Works Director Jim Davis informed the Board that prior to the County issuing the land development permit for a subdivision to be built. He informed the Board that he possessed recent photos confirming that the inspection of Lake E reflected that the lake slope met the 4 to 1 requirement.

Discussion ensued as Commissioner Davis and Attorney Collins discussed the 4 to 1 slope dispute between Mr. Aprile and the engineers.

Lou Fitzpatrick, President of the Master Association for Citrus Springs, wanted the Board to enact legislative statutes to protect other new developments from this same situation. He thought it was St Johns' responsibility to ensure that the stormwater system is satisfactory and that it was the Board's responsibility to require staff to inspect on a regular basis, until the property is turned over to the Association.

Mike Slate, St. Johns River Water Management District, said that St. Johns did not have any performance bond requirements on this project because there were no wetlands involved. He informed the Board that there were a number of compliance issues with Suntree Developers and that the only outstanding issue involved the homes that Mr. Aprile spoke of regarding drainage problems, of which they were awaiting design plans that would remedy the situation. He promised the residents that SJRWMD would not transfer the permit from the developer to the Homeowners Association until they are in full compliance with the permit.

Mr. Slate said the issue regarding the lake slope requirement was for the upper face of the slope. He said there are no slope requirements for when the water level

recedes from extreme drought. He explained that the purpose of the drainage system is to collect water from the lots and roads and convey that to stormwater collection for storage treatment and ultimately discharge. He concluded by promising the Association that SJRWMD would resolve the issue regarding the conflict between the drainage requirements of St. Johns and the County's requirements for a landscape berm.

Commissioner Flescher clarified that as a result of the findings, the developer is fully responsible and that it would not be a burden to the citizens of the community.

Commissioner O'Bryan wanted to know what "teeth" St. Johns has in order to enforce the permits since a performance bond is not required. Mr. Slate explained that in regards to mitigation, the performance bond is typically required when there are wetland impacts.

(Clerk's Note: Chairman Wheeler arrived at 4:18 p.m.)

Mr. Slate explained that the permit had not been turned over and that the developer is still legally and financially responsible for correcting the situation. He said the aesthetic issues of the lake level and the toe of the slope is an issue between the homeowners and the developers, not St. Johns. He further explained that St. Johns still retains a covenant with the developer. Mr. Slate offered to meet with the residents of the Homeowners Association as well as any leadership, on site, tomorrow.

Commissioner Davis suggested that Administrator Baird send individuals to meet with the group tomorrow, from Community Development, Permitting, Public Works and Engineering departments.

Peggy Hoffman, Village of Citrus Springs, wanted to know if there was a single permit that was applicable to each of the seven villages or if each one held a separate permit. Mr. Slate explained that there was an umbrella permit which addressed them all.

Joseph Paladin, Developer, said that developers are not licensed. He reported that it is not the County's responsibility to ensure that lakes are graded to a 4 to 1 slope, they just review the paperwork. He explained that his surveyor conducts the survey at the beginning and at the end of a project, then the engineer certifies it, reiterating that the County only approves what the surveyor and the engineer certified.

6. ADJOURNMENT

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 4:30 p.m.

ATTEST:

Jeffrey K. Barton, Clerk

Gary C. Wheeler, Chairman

Minutes Approved: _____

BCC/LAA/2005Minutes