

**FINAL**

**MINUTES OF THE MEETING  
of the  
HARRIS CHAIN OF LAKES RESTORATION COUNCIL**

**May 6, 2005**

The regular meeting of the Harris Chain of Lakes Restoration Council (Council) was held at 9:00 AM on May 6, 2005 at the Lake County Board of County Commissioners' Chambers, 315 West Main Street, Tavares, Florida.

**Members Present**

Hugh (Dave) Davis II, Chairman  
Skip Goerner, Vice Chairman  
Thomas A. Cook, MD, Secretary  
W. Thomas Brooks  
Keith Farner  
Robert Kaiser, P.E.  
Don Nicholson  
Rick Powers, P.G.

**Members Absent**

Charles C. Clark

**1. CALL TO ORDER**

Chairman Dave Davis called the meeting to order at 9:10 AM.

**2. INVOCATION AND PLEDGE OF ALLEGIANCE**

The Invocation was given by Councilman Robert Kaiser, followed by the Pledge of Allegiance.

**3. ROLL CALL**

Chairman Davis called roll. Councilmen Charles Clark was absent.

**4. APPROVAL OF MINUTES**

A call was made for discussion of the Minutes from the April 4, 2005 meeting. Gene Caputo of the St. Johns River Water Management District (SJRWMD) suggested edits for the comments he made at that meeting. A vote to approve the Meeting Minutes with the suggested edits passed unanimously.

## **5. DISCUSSION ITEMS**

### Quarterly Budget Report – 1<sup>st</sup> Quarter FY04-05, Tom Brooks

Councilman Tom Brooks made a brief announcement to the Council that he had decided to retire after 36 years in public accounting. Councilman Brooks then gave a brief summary of the Council's budget saying from the starting balance of \$50,000; as of 12/31/04 there was a balance of \$39,818.86 of which \$16,274.00 was due to Berryman & Henigar, Inc. for services as Recording Secretary to the Council, leaving a final balance of \$23,544.86.

Vice (V.) Chairman Skip Goerner updated the Council on the funding received by the Florida State Legislature based on the funding request they had submitted. He reminded the Council that they had submitted two funding budget requests for consideration. One of the requests was for \$800,000 that included money for bass restocking, cypress tree plantings, revegetation of the lakes, and to assist mosquito and aquatic plant management efforts. V. Chairman Goerner said they were awarded \$300,000 of that funding request. The other funding request submitted in the amount of \$3.25 million to support the SJRWMD in their Upper Ocklawaha River Basin (UORB) projects, including the Lake Griffin access canal dredging project. He explained that the Council was awarded \$1.0 million of that request. V. Chairman Goerner said the Council members should thank the Lake County Delegation for their efforts, especially State Senator Carey Baker who worked very hard to help secure the funding.

Mike Perry, Executive Director of the Lake County Water Authority (LCWA) thanked V. Chairman Goerner for the efforts he had put forth in working with the Legislature to secure funding for the various projects.

Mr. Caputo said that the whole Council should be congratulated for their efforts. He then asked for approval to reimburse Dr. Pearce Jones, a scheduled guest speaker, for his travel expenses from Gainesville to give his presentation. A vote to approve reimbursement of the travel expenses passed unanimously.

## **6. PRESENTATIONS**

### Public Records/Sunshine Law – Sanford Minkoff, County Attorney

Sanford Minkoff, the County Attorney for Lake County gave a presentation on the application of the Florida Sunshine Laws and public records, and how they relate to the Council. He explained that there are three major concepts that have to be understood; 1. Who is subject to the law, 2. What is a meeting, and 3. How to comply. Mr. Minkoff gave the following explanations of these concepts:

1. Who is subject to the law? Any board or committee throughout the State, no matter how created, and even one person if the other committee members delegated their authority to that person to act on their behalf, would be required to comply with the Florida Sunshine and Public Record Laws. Mr. Minkoff said that after review the Council's enacting legislation he determined that the

Technical Advisory Group (TAG) is subject to the Sunshine Laws whenever they are discussing public business.

2. What is a meeting? When two or more members of a committee get together to discuss public business; where email, telephone conversations, teleconferences, letters, etc. could all constitute a meeting.
3. How to comply? In order to comply the meeting must be advertised to the general public, give reasonable notice as to the time and location of the meeting, and the meeting must be held in a public place. Additionally, minutes must be prepared that reflect in general terms what was discussed in the meeting.

V. Chairman Goerner asked if the TAG were only used for fact finding and informational purposes, would they be subject to the Sunshine Laws? Mr. Minkoff explained it would be virtually impossible to find a committee that would limit itself to fact finding only. He also said that the title of Technical Advisory Group indicates that their function is to “advise” or give advice to the Council. Mr. Minkoff restated his opinion that the TAG is required to be governed by the Sunshine Laws.

Secretary Tom Cook asked if two TAG members were to discuss issues that would not be voted on by the Council, would that discussion be governed by the Sunshine Laws? Mr. Minkoff said that if two TAG members were to discuss any aspect of the Harris Chain of Lakes or Council business or purpose, then the discussion would fall under the Sunshine Laws.

Councilman Keith Farner asked whether the email received by the Council from the various agencies would fall under the Sunshine Laws? Mr. Minkoff explained that under the Public Record Laws, all written communication received by an appointed committee member must be maintained and made available upon public request. He said this would not only include email and letters but a variety of other correspondence including advertisements to attend professional seminars. He also said that the members are not required to keep duplicates of any correspondence. Mr. Minkoff suggested that in order to be safe, the Council members could send copies of all correspondence to the SJRWMD and for them to maintain the Council’s correspondence. He also suggested that sending and not maintaining copies of email is where many people get themselves in trouble.

Dr. Daniel Canfield of the University of Florida (UF) and member of the TAG disagreed with Mr. Minkoff’s interpretation of how the Sunshine Laws relate to the TAG saying that he had been told by attorneys for the Florida State Senate that the TAG for the Council was not obligated to operate under the Sunshine Laws.

Mr. Minkoff maintained his opinion saying that the matter had recently been contested in courts all the way to the Florida Supreme Court who have upheld that any advisory group who offer an opinion that involves public business, are subject to the Sunshine Laws. He went on to say that the Council could request an opinion on the issue from the State

Attorney General's office, but he was very confident that their opinion would concur with his.

Dr. Canfield continued to disagree with Mr. Minkoff saying the nature of the TAG has been to provide both pro and con information to the Council on the restoration issues that come before them. He went on to say that he speaks with Dr. Larry Battoe (SJRWMD) and Bill Johnson of the Florida Fish and Wildlife Conservation Commission (FWCC) on a variety of issues that are not directly related to the Harris Chain of Lakes (HCOL) and he will continue to do so.

Councilman Keith Farner expressed his concern that the TAG may not be operating within the Sunshine Laws and he would not want to put the Legislative funding just awarded to the Council in jeopardy.

Dr. Canfield said that he would operate within the parameters of the Sunshine Laws even if that meant that all of their meetings would be held in front of the Council during their monthly meetings. He also suggested that the Council make another attempt to obtain an opinion from the Florida Attorney General.

Mr. Minkoff cited a couple of cases where public employees conferred with other employees to make decisions and the courts determined that was in violation of the Sunshine Laws. He also told the Council that the courts were moving towards more rulings to uphold the laws.

Bill Johnson (FWCC) asked if "fact finding" was subject to the Sunshine Laws. Mr. Minkoff said reading or providing raw "facts" is not, but discussing the facts in any way does fall under the purview of the Sunshine Laws.

For clarification, Councilman Tom Brooks asked if Dr. Canfield wanted to talk to Mr. Johnson of the FWCC on a matter, would there need to be public notification prior to that conversation? Mr. Minkoff said yes, and then also explained that that if the public were properly notified of the fact that notification of the meetings would be advertised on the Council's website, then that would serve as public notice.

Councilman Rick Powers asked if he were to contact Dr. Canfield to discuss an issue, would that require public notice. Mr. Minkoff said no because they were not on the same committee. He also stressed that compliance with the Sunshine Laws is the ultimate responsibility of the Council, without reliance on administrative staff to post notices or prepare minutes.

V. Chairman Goerner said it was not all that hard to comply with the Sunshine Laws believed the Council was complying.

Councilman Don Nicholson said that he did not have a clear understanding of what is required under the laws and thought that Senator Carey Baker could provide some

clarification on the matter. V. Chairman Goerner suggested that the issue could be discussed at the next public meeting of the Florida Delegation. He also suggested that the Council members should be forwarding to and copying the SJRWMD on all of their email, so the District can maintain a copy of them.

Councilman Kaiser made a motion that the Council request clarification from the Florida Delegation as to how the Sunshine Laws relate to their activities. The motion was seconded.

Mr. Caputo suggested that the Council invite Senator Carey Baker to discuss the matter at one of their monthly meetings.

V. Chairman Goerner said that perhaps there is a way to change how the Sunshine Laws affect the Council and that could also be discussed with the Florida Delegation.

Councilman Farner expressed his disagreement with the motion saying the Council should focus their efforts on lake restoration and not attempting to change the legislation that created them. Dr. Canfield agreed with Councilman Farner that the Council should go about the business of lake restoration and meanwhile he will talk to attorneys for the UF about the matter. He said that the TAG members will schedule their internal discussions on various restoration issues to be held in front of the Council during their monthly meetings.

A vote to approve Councilman Kaiser's motion passed with Councilmen Farner and Powers casting Nay votes.

#### Energy Saving Opportunities for Water Resource Management – Dr. Pearce Jones

Dr. Pearce Jones, Director of the Program for Resource Efficient Communities at the UF gave a presentation on energy, water and development. After a brief introduction of how the program has developed, he discussed the issues involving the Council.

#### Harris Chain of Lakes Restoration Council

##### Challenges

- Minimize nutrient / chemical loading
- Minimize stormwater runoff
- Maximize recharge to the aquifer

##### Context

- Rapid Population Growth  
28 million Floridians by 2025
- Rapid Development in Lake County  
5,638 Building Permits issued in 2004

#### Program for Resource Efficient Communities

For 2006 Tampa Bay Water estimates the cost to deliver 1.0 million gallons of water by different sources:

Groundwater	\$ 72.43
Surface Water	\$ 75.27
Desalinated Water	\$1,060.00

Dr. Jones' presentation covered the various methods of construction for energy efficient homes and resource efficient landscaping. He gave examples of developments and builders around the State that prescribe to the Energy Star certification program. Dr. Jones suggested that the Council work with local developers to adopt certification standards which reward practices that:

- Minimize nutrient / chemical loading to the lakes
- Minimize the amount of stormwater runoff by encouraging storage and/or allowing the water to percolate into the ground
- Maximize recharge to the aquifer

Dr. Jones further suggested that the Council work with local governments, utilities and others to establish meaningful incentives which encourage builders and developers to adopt the certification standards.

Councilman Brooks asked if there is a credit in the certification standards for utilizing reuse water. Dr. Jones said yes and that it is an excellent way to reduce the amount of potable water used for irrigation.

Councilman Farner asked if Dr. Jones had any specific recommendations for Lake County that he would make to the Council. Dr. Jones replied that now he has a better idea as to some of the issues affecting the HCOL and he would develop some recommendations, then present them to the Council at a later date.

Mr. Caputo added that he had been working with Dr. Jones on the Madera subdivision in Gainesville and emphasized that not only are there energy savings involved in this technology, but there are also benefits to surface water quality. He said that Lake County Commissioner Catherine Hanson along with other county representatives attended a tour of the project and it generated a lot of interest locally. Mr. Caputo also said that he has been working with Dr. Jones on developing a guide that counties can use to assist in implementing the Energy Star and associated programs. He also suggested that the Council could support local officials in their effort to implement these programs which include rewriting ordinances, creating recommendations and offering incentives.

Councilman Kaiser asked Dr. Jones about the possible use of wind generated power at the Lake Apopka Marsh Flow-way (LAMF) and the Lake Beauclair Nutrient Reduction Facility (NuRF). Dr. Jones agreed that there would be great benefits to the environment if wind power were used in place of electricity.

Councilman Kaiser then asked if a one-year study could be conducted into the feasibility of using wind powered generators. Dr. Jones said that he would contact people at the UF to inquire about the possibility of them conducting a wind power feasibility study.

Dr. Canfield asked Dr. Jones if he could recommend someone at the UF who could make some calculations as to the feasibility of utilizing wind generated power at the LAMF using existing data. Dr. Jones said he would look into the issue and recommend someone to the Council. Dr. Canfield added that there had been some environmental issues with wind farms in Wisconsin where birds had been killed by flying into the blades of the wind pumps.

Several Council members thanked Dr. Jones for his presentation.

Agency Updates

Dr. Larry Battoe (SJRWMD) provided updates on water quality in Lakes Apopka and Griffin saying that the water quality continues to improve. He said that when he started working with Lake Apopka many years ago, the average phosphorus concentration in the lake was 220 micrograms per liter ( $\mu\text{g/l}$ ) and it had gone to an average of 150  $\mu\text{g/l}$  by 1995. He then provided the Trophic Values (water quality) for the lakes saying that they continue to improve after the hurricanes of 2004:

	Lake Apopka	Lake Griffin
Total Phosphorus	52 $\mu\text{g/l}$	57 $\mu\text{g/l}$
Chlorophyll a	34 $\mu\text{g/l}$	124 $\mu\text{g/l}$
Secchi Depth	45 centimeters (cm)	28 cm

Dr. Battoe also gave an update on gizzard shad harvesting efforts saying they had completed their efforts for the winter and a total of 1.15 million pounds had been harvested including 750,000 pounds from Lake Apopka and 280,000 pounds from Lakes Beauclair and Dora. Additionally there is a fisherman using a cast net on Lake Griffin who has caught over 100,000 pounds of shad. He said that they are working on a post-harvest report and that the harvesting program is scheduled to run for a total of three years.

V. Chairman Goerner asked if there is a target or goal they are trying to reach with the program. Dr. Battoe said that there is very little information on the benefits of shad harvesting and they will continue as long as there are sufficient numbers of fish to be harvested.

Dr. Battoe then said that the SJRWMD had identified an area in the Lake Apopka North Shore Restoration Area (NSRA) to receive the spoil material from the Lake Beauclair dredging project, to remove the delta of sediments that has accumulated just downstream of the lock and dam.

Dr. Battoe went on to discuss additional efforts at the LAMF saying that when they lowered water levels on their property to the north of the flow-way, the water was

determined to have very high concentrations of phosphorus. He said that the District treated the water prior to discharging it.

Barbara Bess of the Florida Department of Environmental Protection (FDEP) provided an update saying that she is currently working with Lance Lombard (LCWA) to possibly utilize the remaining \$17,000 available through the Department to fund stormwater improvements at the Mid Florida Lakes Mobile Home Park. Additionally, she is working with Dave Walker (SJRWMD) to provide \$82,000 to assist in the funding of a portable alum treatment system that will initially be set-up at the Emerald Marsh. She wanted to let the Council know that she was working to utilize as much funding as possible for projects in the HCOL Basin.

In response to Chairman Davis' request about surveys of meandered lakes in the State, Ms. Bess explained that she had been contacted by Jim Long from the Division of Lands in Tallahassee. In the extensive conversation she had with Mr. Long he gave detailed instructions on how to find out anything one would like to know about State-owned lands. Those instructions were provided to the Council as a handout. Ms. Bess said that she had not had a chance to do any research of the information and asked Chairman Davis if there was a particular lake in the chain on which he would like information. Chairman Davis said Lake Griffin and Ms. Bess said she would see what information she could find for him.

Ms. Bess also gave a brief update on the Total Maximum Daily Load (TMDL) Program saying the FDEP is continuing to hold public meetings to discuss the program and receive any input that the public would like to provide. She is also assisting in the development of a "portable presentation" that the Department can take to homeowner association meetings or any other public groups that would benefit from the TMDL information.

Councilman Nicholson asked Ms. Bess the status of the old springs in the state. She explained that she had spoken to the Geographical Information Systems (GIS) and Springs Coordinator and he is assembling information on all the springs in the State for the Florida Geological Survey. She asked Councilman Nicholson if there were a specific area that he would like information on, to which he replied the Ocklawaha River Basin.

Mr. Perry (LCWA) provided an update on the progress of the Lake Griffin access canal dredging saying that the contractor was having some issues with wind moving containment booms and after speaking with the Project Engineer, it was determined that anchoring the booms would be required. The anticipated start of dredging is still scheduled for June. He also discussed the Lake Beauclair restoration project saying they are exploring the aspects of offering the dredge material from that project as a marketable product. Two considerations of local users are the Hurley Sod Farm or possibly the Hyponix facility on US 19. Mr. Perry explained that the dredging at Lake Beauclair most likely would not begin for two fiscal years, due to the availability of funding.

Mr. Perry went on to explain that after the review of water quality data collected and recommendations by Dr. JoAnn Burkholder of the University of North Carolina (UNC), the LCWA Board of Trustees have directed him to develop a more comprehensive sampling plan, then put it out for bid for perspective companies to perform the sampling. He said that he will be working with Dr. Burkholder to develop a sampling program and it was important to specifically identify how the data will be used, in order for the Board to approve continued monitoring.

Mr. Perry also said that he is working with the Lake County Medical Society on dates to give the presentations on potentially toxic algae. He said they are currently discussing Wednesdays in July.

John Benton (FWCC) said that they had completed their two year electrofishing survey for the HCOL and they were in the process of reviewing the data collected. When all of the information is assembled, it will be presented to the Council. It is Mr. Benton's initial impression that this year's spring bass count showed fewer Young of Year (under a year in age) bass observed, as opposed to the 2004 count. He said he would wait until all of the information has been reviewed before determining if this is just a natural fluctuation in the bass population or if the hurricanes of 2004 may have had an effect. Mr. Benton explained that this was the first time that a comprehensive survey of this nature had been conducted on the entire chain of lakes and the data will not only provide a baseline of fish populations; it will also be used to improve or refine future sampling efforts.

Mr. Benton also explained that they are completing the creel survey that was funded by the LCWA. The efforts have targeted largemouth bass and black crappie on Lakes Dora, Beauclair, and Eustis as a control lake. They are continuing the survey in those lakes for an additional month so they can include pan fish, such as bluegill and shell crackers. He said this information would serve as baseline data because this type of survey had never been conducted in Lakes Dora and Beauclair.

Mr. Benton also mentioned that rough calculations of the number of bass caught in Lake Griffin, which had been relocated there through Dr. Canfield's restocking efforts, were about 8% of the adult stock. The entire population of adult bass in Lake Griffin was estimated at 54,000 fish or 7 to 8 fish per acre. He explained that the largest recorded bass population in the lake was in 1986 when there were 25.5 bass per acre and during average peak years there have been 17 to 18 bass per acre.

Councilman Farner asked if someone could give a presentation on the status of the fish hatchery at Richloam. Mr. Benton said construction on the state of the art facility is progressing well and he would ask someone from the FWCC to give a presentation.

V. Chairman Goerner asked if the Richloam facility will be capable of producing the larger fingerling bass that could better compete in the lakes. Mr. Benton said he believed they will however, there are still issues with commercially supplied feed for the larger bass. He explained that the feed used in the past produced fish with fatty livers that did not perform

well after being released into the wild. Proper feed supplements for bass are being developed that will help improve the survivability of the fish.

Councilman Brooks mentioned a fish kill he had recently witnessed on Lake Griffin that appeared to only target black crappie. He reminded the Council that they should call the FWCC as soon as possible when events like this occur, so they could investigate the event while it is happening.

Dr. Canfield updated the Council on the bass restocking efforts, reminding them that a total of 4,230 bass had been relocated to Lake Griffin from ponds at the Orlando International Airport. Recent fish counts conducted by the UF indicated that approximately 10% of the bass in Lake Griffin were the relocated fish and they estimated the entire bass population in the lake to be 44,000, contrary to the FWCC estimate. Dr. Canfield explained that this population is approximately 4.5 bass per acre and studies conducted in the 1980s indicated that 8 to 11 bass per acre appeared to be the average for lakes throughout the state.

He also discussed the economic impacts of successful bass populations quoting ranges of values saying replacement costs for the bass may be \$70,000 to \$131,000 and the economic return may be \$50,000 to \$780,000 annually, not including the professional bass tournaments. Dr. Canfield said they are preparing a final report on the restocking efforts that should be completed within a month.

V. Chairman Goerner asked if the fish counts were conducted in near-shore habitats where the fish normally live and if the fish per acre calculated utilized the entire acreage of the lake. Dr. Canfield explained that even though the electrofishing is conducted in the near-shore area of the lake, the entire acreage is used because not only do the fish travel throughout the whole lake, it is also how the fish population trends are calculated for all the lakes in the State.

No further agency updates were provided.

## **7. COUNCIL MEMBER COMMENTS**

### Discussion of June 3, 2005 Meeting

Mr. Caputo provided a summary of scheduled agenda items for the June 3<sup>rd</sup> Council meeting including:

- A possible legislative update by Senator Kerry Baker for June or July meeting, depending on his schedule
- A presentation by Andrew Reich of the Florida Department of Health on Blue-green algae
  - Secretary Tom Cook will contact Mr. Reich
- An update on the fish hatchery by the FWCC
- Presentation of the continuing services proposal for Recording Secretary services by Berryman & Henigar, Inc.

### Council Member Comments

V. Chairman Goerner said that the upcoming Crappie Fishing Tournament sponsored by BASS Pro Shops, has also received financial support from local entities including \$15,000 from the LCWA, \$15,000 from Lake County, and \$10,000 from the City of Leesburg. He also said that up to 300 boats from around the country will enter the event and there are negotiations being conducted to bring the State Crappie Fishing Championship to the lakes in 2006 and the National Championship in 2007.

V. Chairman Goerner also expressed his gratitude and congratulations to all of the agencies that have been instrumental in the recovery efforts of the lakes. He explained that the sportsman community is beginning to once again consider the HCOL as premier sport fishing lakes.

V. Chairman Goerner also mentioned that during the recent legislative session, the Council was instrumental in helping Dr. Canfield's Fishing for Success program secure \$500,000 in funding.

V. Chairman Goerner then put forth a motion that Richard Royal (a private citizen) be appointed to serve as an Ex-officio representing the agricultural community to the Council. The motion was seconded. Mr. Royal said that he would be pleased to discuss the possibility of serving the Council and he thought that it would be very important for someone from the agricultural industry to be represented before the Council.

A vote for the Council to offer the position of Ex-officio to Mr. Royal passed unanimously. Chairman Davis then directed the Vice Chairman to discuss the possible appointment to the position with Mr. Royal. V. Chairman Goerner agreed.

Councilman Kaiser asked if there is an anemometer at the LAMF that was recording wind speed and direction. Dr. Battoe said that there was and the data collected is available.

There were no additional comments made by the Council.

### **8. PUBLIC COMMENTS**

No public comments were made.

### **9. ADJOURNMENT**

The meeting was adjourned at 12:05 PM.

Respectfully submitted by:

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Chairman Dave Davis

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Secretary Thomas Cook, M.D.