

**Minutes of the Sebastian Inlet District**  
**Regular Commission Meeting**  
**July 14, 2010**  
**4:00 p.m.**

Call to order: A regular meeting of the Sebastian Inlet District Commissioners was held at the Sebastian Inlet District Offices, 114 Sixth Avenue, Indialantic, FL 32903 on July 14, 2010. The meeting was called to order at 4:00 p.m. by Chairman Ann Perry. Secretary Jenny Lawton Seal was present and there was a quorum.

Approval of Minutes: Motion was made by Commissioner Mitchell to approve the minutes of the June 9, 2010 meeting as corrected. **Motion carried.**

Executive Director's Reports:

Status of DMMA Project – The noticed general environmental resource permit was received from SJRWMD for the tide pool excavation. The public will have 21 days to review and petition if desired. An invoice was received from the FWCC for the gopher tortoise permit application for relocation. Two permitting options and the associated costs were described. 1. A short-term protected recipient site permit at a cost of \$130,680 which can be applied for immediately. 2. A recipient site permit for restocking public land at a cost of \$114,560 in which monitoring will be required every year for 30 years. **See Attachment 1.** Commissioner Mitchell moved to accept option 1 for the gopher tortoise relocation. **Motion carried 5-0.**

Update on FIND Application and Status of L-Dock Permitting – Mr. Smithson gave a presentation to FIND on June 18th requesting funding for the Coconut Point Stabilization and L-Dock projects. The District has requested \$140,000 for the L-Dock and \$36,000 for Phase I of the Coconut Point project.

Update on Gulf Oil Spill – A description was provided regarding the success of the containment cap and the capturing of oil and it being reclaimed as the oil rises.

Inlet Navigational Buoys – The new buoy and hardware were delivered to the State Park as requested. It was discussed that a DEP dive team will inspect the repaired prop scar areas planted to see how well the mitigation for the channel extension is performing.

DEP Beach Management Program F/Y 2011 – 2012 Funding Requests – The District received a check for \$84,190 from DEP for 50% of the DMMA design and permitting costs. The District is under agreement for 50% of the DMMA construction costs as well. Resolution No. 07.14.10-01 is on the Consent Agenda under item VIII, B-2, the District is required by DEP to demonstrate support of the proposed F/Y 2011 -2012 sand transfer projects and cooperation with DEP. **See Attachment 2.**

Budget Discussion and Recommendation of 2010 -2011 Not-To-Exceed Millage Rate – Mr. Smithson reviewed the budget categories and the figures if the millage rate remained the same at 0.1124 or the Commissioners opted for the roll back rate at 0.1302. A resolution for the current millage rate of 0.1124 was on the consent agenda, which is the same level as the 1980's.

Park Matters – Mr. Coulliette had a conflicting meeting and could not attend.

Legal Counsel Update – Mr. Kirschenbaum read an email from Kristi Bronson, Bureau of Elections Records Chief, which was sent to the Supervisors of Elections of Brevard and Indian River Counties regarding the candidates for the Sebastian Inlet District appearing on the primary ballot. Ms. Bronson wrote that “due to the specific language in the special act creating the Sebastian Inlet District, candidates for the Sebastian Inlet will appear on the primary election ballot under non-partisan races. If no candidate receives a majority of the vote, the top two vote getters will appear on the general election ballot. This will be reflected on your primary ballot certification. If you have any questions, let me know.” The email was not sent to the District or any other special districts that were affected by the change. In section 2-(b) the charter states that “the board members shall be elected on a non-partisan basis by a majority of the qualified electors of the voting district at the election held in both Indian River and Brevard Counties. The election officials of each voting district or precinct within the Sebastian Inlet District shall conduct the election of the member of the board of commissioners at the time of conducting such general election.” Mr. Kirschenbaum provided options 1). Do nothing and allow a primary election to occur for the seats that have two or more candidates. 2). Decide that the election be held at the general election in November which complies with the charter. Ask the state division of elections to change their decision, change their ballot and not have a primary election for any seats that have more than two candidates. If the request is refused, the next step would be to sue the Supervisors of Brevard and Indian River Counties. 3). Allow the primary to happen and accept the results. If a runoff occurred in November, the charter would be complied with.

Commissioner Mitchell moved to have Mr. Kirschenbaum and Mr. Smithson pursue additional information on the charter issue, legal requirements of notice and disenfranchisement of the voters to be discussed at a special meeting prior to making a decision. **Motion carried 5-0.**

#### Public Comment

Mr. Dave Pasley of Melbourne Beach inquired as to how much sand is currently in the sand trap. Mr. Smithson stated there was approximately 60,000 – 70,000 cubic yards above the rock.

Mr. Anthony Infintini of Melbourne Beach stated he wanted the District to strike option two as an option on the charter matter. He stated that the Commissioners were mandated to take care of the inlet and shouldn't be getting involved in law suits.

Discussion was held on the items on the Consent Agenda.

A. Authorized Work for Commission Review: None at this time.

B. Recommended for Approval:

1. Resolution No. 07.14.10-02 Not-To-Exceed Millage Rate for F/Y 2010-2011
2. Resolution No. 07.14.10-01 Supporting Sebastian Inlet Sand Transfer Projects and Cooperation with FDEP Beach Management Program

Commissioner Mitchell moved to approve the consent agenda. **Motion carried 5-0.**

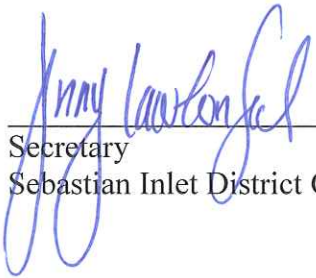
Commissioners Items - There were no additional comments from the Commissioners.

Unfinished Business – Mr. Smithson received a quote from a company that charges \$850 per meeting, \$1,000 for the initial set up to video record the Commission meetings. Research is still being done on the

legality of editing. Commissioner Lawton Seal wanted inquiries made of other special districts and how their meetings were handled. Commissioner Westlake noted that a digital audio recording may suit the needs of the District.

New Business - There was a consensus of the Commission to hold a special meeting on July 28, 2010 at 4:00 p.m. at the District Offices, 114 Sixth Avenue, Indialantic, FL 32903.

Adjournment – Chairman Perry adjourned the meeting at 5:43 p.m.

  
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Secretary  
Sebastian Inlet District Commission

11 Aug 10  
\_\_\_\_\_  
Date Approved



## Memorandum

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**Date:** June 21, 2010  
**To:** Marty Smithson  
**From:** Lisa Munsch  
**Re:** Sebastian DMMA Gopher Tortoise Recipient Site Permitting  
Lake Louisa State Park

**Cc:** Bryan Flynn (PBS&J)  
Jeff Tabar (PBS&J)  
Marie Romah (PBS&J)

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As requested during our teleconference conducted on Thursday, June 17, 2010, this memo presents the summary of issues and a cost breakdown for two options related to the gopher tortoise recipient site permitting (Short-Term Protected and Public Land Restocking) for a portion of Management Unit LL22 at Lake Louisa State Park managed by the Florida Department of Environmental Protection (FDEP).

The Florida Fish and Wildlife Conservation Commission's (FWC) Gopher Tortoise Permitting Guidelines (dated June 2010) (Guidelines) is the reference document used for the preparation of this document.

A 15% gopher tortoise burrow survey was conducted on June 2 and 4, 2010 within the southernmost 42.5 acres of LL22. The data analysis indicates that the Lake Louisa site has ample capacity to receive the estimated 30 tortoises that will need to be relocated from the Sebastian Inlet District's Dredged Material Management Area (DMMA) located within the Sebastian Inlet State Park.

### OPTION 1: SHORT-TERM PROTECTED RECIPIENT SITE PERMITTING

Based on the Guidelines and a recent conversation I had with Rick McCann regarding this project, applying for a Short-term Protected Recipient Site Permit for the Lake Louisa site is a viable option for the DMMA tortoises. The FWC requires a minimum of 25 acres for this type of permit. Based on the data analysis of the burrow transect survey, the southernmost 25.6 acres of LL22 could support an additional 38 gopher tortoises (Attachment A) at a density of 2 tortoises per acre.

If the District opts to apply for this type of permit the following tasks would be required:

- Prepare and submit an on-line permit application for 25.6 acres of LL22 (**Cost covered under existing Work Order**)
- Respond to any Requests for Additional Information (RAIs) (**Cost covered under existing Work Order**)
- Perform a field review of the recipient site with FWC staff (**Cost covered under existing Work Order**)
- Pay permit application fee of **\$500.00**
- Install silt fence (approximately 4,600 l.f.) (4,600 l.f. x \$1.00/l.f. = **\$4,600.00**)
- Maintain silt fence for 6 months (4 repair jobs = **\$600.00**)
- Perform post-relocation burrow survey in recipient area 1x per week for the first month; then 1 x per month for 6 months (**\$6,780.00**)

**SHORT-TERM RECIPIENT SITE PERMIT COST: \$12,480.00**

#### **DONOR SITE PERMITTING, EXCAVATION AND RELOCATION**

A permit application to relocate the tortoises from the DMMA site cannot be submitted to the FWC until a recipient site permit for Lake Louisa is issued by the FWC.

The estimated cost for PBS&J to perform a 15% and a 100% gopher tortoise burrow survey on the donor site (DMMA site), prepare the Gopher Tortoise Conservation permit application, excavate 60 gopher tortoise burrows (including the trackhoe and operator), relocate the tortoises, and prepare and submit a post- excavation report to the FWC is **\$43,000.00**

The fee for the permit application to relocate the tortoises to a SHORT-TERM PROTECTED SITE is **\$75,200.00** assuming a total of 30 tortoises (\$200 for the first 5 tortoises, \$3,000 per tortoise for each of the remaining 25) will be relocated.

**DONOR SITE PERMITTING COST: \$43,000.00 + \$75,200.00 = \$118,200.00**

**TOTAL COST FOR RELOCATING DMMA TORTOISES TO A SHORT-TERM PROTECTED SITE: \$12,480.00 + \$118,200.00 = \$130,680.00**

**NOTE: A Short-Term Protected Recipient Site Permit application can be applied for immediately. The FWC has been issuing these types of permit for at least a year and have an on-line permitting system in place. It is anticipated that the permit**

would be issued within 2 months of permit submittal. No long-term monitoring of the recipient site would be required.

#### OPTION 2: RECIPIENT SITE PERMITTING FOR RESTOCKING PUBLIC LAND

The June 2010 Guidelines provide for a new type of recipient site permit; Restocking Public Land (Restocking Permit). The minimum area for a Restocking Permit is 40 acres. Based upon the density surveys conducted the 42.5 acres of LL22 could support an additional 41 gopher tortoises at a stocking density of 1.5/acre (maximum allowed under the Guidelines for this area) (Attachment B).

If the District opts to apply for this type of permit the following tasks would be required:

- Coordinate with FDEP, FDEP Division of State Lands and the FWC to create a Memorandum of Agreement (MOA). Protection of recipient area must be assured for a minimum of 30 years. Possible modification of existing land lease on proposed recipient site may be necessary. ( **\$5,100.00**)
- Prepare and submit a permit application for 42.5 acres of LL22 (**Cost covered under existing Work Order**)
- Respond to any Requests for Additional Information (RAIs) (**Cost covered under existing Work Order**)
- Perform a field review of the recipient site with FWC staff (**Cost covered under existing Work Order**)
- Pay permit application fee of **\$500.00**
- Install silt fence (approximately 6,000 l.f.) (6,000 l.f. x \$1.00/l.f. = **\$6,000.00**)
- Maintain silt fence for 6 months (4 repair jobs = **\$600.00**)
- Perform post-relocation burrow survey in recipient area 1x per week for the first month; then 1 x per month for 6 months (**\$6,780.00**)
- Perform follow-up monitoring and prepare reports for recipient site; every 3 years for 30 years (**\$44,880.00**)

#### RECIPIENT SITE PERMITTING FOR RESTOCKING PUBLIC LAND

**COST: \$63,860.00**

#### DONOR SITE PERMITTING, EXCAVATION AND RELOCATION

A permit application to relocate the tortoises from the DMMA site cannot be submitted to the FWC until a recipient site permit for Lake Louisa is issued by the FWC.

The estimated cost for PBS&J to perform a 15% and a 100% gopher tortoise burrow survey on the donor site (DMMA site), prepare the Gopher Tortoise Conservation permit application, excavate 60 gopher tortoise burrows (including the trackhoe and operator), relocate the tortoises, and prepare and submit a post- excavation report to the FWC is **\$43,000.00**

The fee for the permit application to relocate the tortoises to PUBLIC LAND under a RESTOCKING PERMIT is **\$7,700.00** assuming a total of 30 tortoises (\$200 for the first 5 tortoises, \$300 per tortoise for each of the remaining 25) will be relocated.

**DONOR SITE PERMITTING COST: \$43,000.00 + \$7,700.00 = \$50,700.00**

**TOTAL COST FOR RELOCATING DMMA TORTOISES TO PUBLIC LAND UNDER A RESTOCKING PERMIT: \$63,860.00 + \$50,700.00 = \$114,560.00**

**NOTE: This permit will not be available until at least September 2010. This project would likely be the first application for this type of permit. It is unknown how long the FWC would take to review the application and issue a permit. It is also unknown how long it will take for the FDEP and the FWC to develop an acceptable MOA that must be in place prior to the issuance of the permit. This cost estimate assumes that the FDEP management plan that exists for the proposed recipient site will be sufficient for the FWC and no revisions to the plan or additional land management activities will be necessary.**

#### **SUMMARY**

A list of pros and cons for each of the two options is listed below and is provided as a summary of the information presented above.

#### **OPTION 1: SHORT-TERM PROTECTED RECIPIENT SITE PERMIT (\$130,680.00)**

##### **Pros**

- **Can be applied for immediately**
- **Expect a permit to be issued within 2 months of application submittal**
- **No long-term post-relocation monitoring requirements**

##### **Cons**

- **Total cost is more expensive than Option 2 by \$16,300.00**
- **Cost is an up-front cost**

#### **OPTION 2: RECIPIENT SITE PERMIT FOR RESTOCKING PUBLIC LAND (\$114,560.00)**

##### **Pros**

- **Total cost is \$16,300.00 less than Option 1**

- **\$43,000.00 of the total cost can be distributed over a long period of time (\$4,500.00 every 3 years for 30 years)**

**Cons**

- **Cannot permit application until at least September**
- **Unknown time frame on executing MOA between FDEP and FWC**
- **Monitoring will be required every 3 years for a minimum of 30 years**



ATTACHMENT 1  
SHORT-TERM PROTECTED RECIPIENT SITE  
DENSITY CALCULATIONS

**Sebastian Inlet District's Dredged Material Management Area**  
**Gopher Tortoise Relocation Project**  
**Lake Louisa State Park - Proposed Recipient Site**  
**Gopher Tortoise Burrow Transect Survey Data**  
**Short-term Protected Recipient Site**

Transect i.d.	Total Length of Transect (m)	Total Width of Transect (m)	Area Surveyed (ac)	Total # of P.O. Burrows Found	Total # of AB Burrows Found	# of Adult P.O. Burrows	# of Juv. P.O. Burrows ( $\leq 150\text{mm}$ )	Total # of Adults in Transect*
23	125	16	0.5	2	3	0	2	0
22	250	16	1.0	3	0	3	0	2
21	250	16	1.0	3	0	1	2	1
20	250	16	1.0	3	0	0	3	0
19	250	16	1.0	0	0	0	0	0
<b>Totals</b>			<b>4.4</b>	<b>11</b>	<b>3</b>	<b>4</b>	<b>7</b>	<b>2</b>

\* Number of adult burrows x FWC conversion factor of 0.5

<b>Existing Gopher Tortoise Density (adult tortoises / # of acres surveyed)</b>	<b>0.4</b>
<b>Estimated Number of Gopher Tortoises Present in 25.6 ac (density x # of ac in recipient site)</b>	<b>12</b>
<b># of Tortoises that can be Released (Final Stocking Rate = 2.0 Tortoises/ac)</b>	<b>38</b>

ATTACHMENT 2  
PUBLIC LAND RESTOCKING PERMIT  
DENSITY CALCULATIONS

**Sebastian Inlet District's Dredged Material Management Area**  
**Gopher Tortoise Relocation Project**  
**Lake Louisa State Park - Proposed Recipient Site**  
**Gopher Tortoise Burrow Transect Survey Data**  
**Restocking Public Land**

Transect i.d.	Total Length of Transect (m)	Total Width of Transect (m)	Area Surveyed (ac)	Total # of P.O. Burrows Found	Total # of AB Burrows Found	# of Adult P.O. Burrows	# of Juv. P.O. Burrows (< 130mm)	Total # of Tortoises in Transect*
23	125	16	0.5	2	3	0	2	0
22	250	16	1.0	3	2	3	0	2
21	250	16	1.0	3	0	1	2	1
20	250	16	1.0	3	0	0	3	0
19	250	16	1.0	0	0	0	0	0
18	250	16	1.0	1	0	1	0	1
17	250	16	1.0	2	0	2	0	1
<b>Totals</b>			<b>6.5</b>	<b>14</b>	<b>5</b>	<b>7</b>	<b>7</b>	<b>3.5</b>

\* Number of adult burrows x FWC conversion factor of 0.5

<b>Existing Gopher Tortoise Density (# of tortoises / # of acres surveyed)</b>	<b>0.5</b>
<b>Estimated Number of Gopher Tortoises Present in 42.5 ac (density x # of ac in recipient site)</b>	<b>23</b>
<b># of Tortoises that can be Released (if Final Stocking Rate = 1.5 Tortoises/ac)</b>	<b>41</b>

RESOLUTION NO. 07.14.10-1

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF  
THE SEBASTIAN INLET DISTRICT, SUPPORTING THE PROPOSED SEBASTIAN  
INLET SAND TRANSFER PROJECTS AND COOPERATION WITH FLORIDA'S  
BEACH MANAGEMENT PROGRAM**

**BE IT HEREBY RESOLVED** that the Board of Commissioners of the Sebastian Inlet District supports proposed Sebastian Inlet sand transfer projects, including construction of a Dredged Material Management Area and the enhancement of the Inlet Sand Trap, and providing local cost-share for a cooperative agreement with Florida's Beach Management Program.

**BE IT ALSO RESOLVED** that the Board of Commissioners of the Sebastian Inlet District authorizes Administrator Martin S. Smithson to apply to the Florida Department of Environmental Protection for cost-sharing for the fiscal year 2011-2012.

**THIS RESOLUTION** shall become effective on July 14, 2010.

Upon motion by Commissioner BETH L. MITCHELL and second by Commissioner JIM CULBERSON, the Board approved the Resolution as follows:

Ann Perry  
Jim Culberson  
Beth L. Mitchell  
Jenny Lawton Seal  
Jeannette Westlake

AP  
JL  
BLM  
JS  
JW

The Chair thereupon declared the resolution duly passed and adopted this 14th day of July, 2010.

**SEBASTIAN INLET DISTRICT**

By: Ann Perry  
Ann Perry, Chairman

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Jack Kirschenbaum  
Jack Kirschenbaum  
Attorney for Sebastian Inlet District