

**Minutes of the South Fulton Municipal Regional Water And  
Sewer Authority Meeting Held on November 13<sup>th</sup>, 2018,  
At 56E Malone Street, Fairburn, GA**

**BOARD MEMBERS PRESENT:** J. Clark Boddie, Vince R. Williams, Laura Mullis, James Whitmore, Sonja Fillingame and Shayla J. Nealy

**BOARD MEMBERS ABSENT:** Elizabeth Carr Hurst

**Consultants Present:** Dennis Davenport, Dan Post, Laura Benz and Andrea Gray

**Others Present:** None

**Call To Order:** Chairman Vince R. Williams called the meeting to order at 7:00 PM.

**Approval Of The Minutes:** A motion was made by James Whitmore to approve the minutes of the October 15<sup>th</sup>, 2018 meeting, seconded by J. Clark Boddie. A vote was taken, the motion passed unanimously.

**New Business:**

Chairman Williams introduced the new Auditor Douglas L. Moses with Mauldin & Jenkins to the Board. Mr. Moses stated that Adam Fraley will be the engagement partner responsible for the Authorities audit. They have already contacted Post and Associates to meet and get everything started.

**Old Business:** None

**Reports:**

**Legal** – Dennis Davenport stated that he had nothing to report for this month.

**Finance** – Dan Post reviewed with the Board:

1. The October 2018 financial statement.

2. Requested approval for draw number 184 in the amount of \$15,804.47 from the construction account.

Laura Mullis made a motion to approve draw number 184 in the amount of \$15,804.47 from the construction account seconded by Sonja Fillingame. A vote was taken, the motion passed unanimously.

**Project Managers** – Laura Benz and Andrea Gray reviewed with the Board:

See attached memorandum for details

1. EPD:
  - a. Meeting with EPD concerning SDS issue
  - b. Draft Resolution, the EPD recommended the 3 Cities (Union City, Fairburn and Palmetto) be joint applicant on the water withdrawal permit application
  - c. Answered any questions from EPD regarding Final Water Withdrawal Permit Application

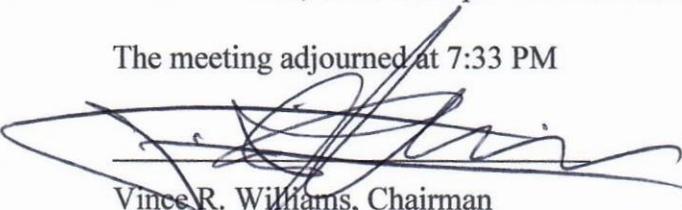
J. Clark Boddie made a motion to approve the Draft Resolution for the 3 Cities (Union City, Fairburn and Palmetto) be joint applicant on the water withdrawal permit application, seconded by James Whitmore. A vote was taken, the motion passed unanimously

2. Compensatory Mitigation:
  - a. Site Specific Sites
  - b. Resale of Mitigation Credits
3. Water wars of the US  
New Special Master, fast tracked everything

**Executive Session:** None

J. Clark Boddie made a motion to adjourn the meeting, seconded by James Whitmore. A vote was taken, the motion passed unanimously.

The meeting adjourned at 7:33 PM

  
Vince R. Williams, Chairman

December 11<sup>th</sup>, 2018

Date Minutes Approved by Board

South Fulton Municipal Regional Water and Sewer Authority  
Minutes of the November 13<sup>th</sup>, 2018 Meeting

## MEMORANDUM

**To:** S. Fulton Municipal Regional Water & Sewer Authority Member Cities Councils  
(Fairburn, Palmetto and Union City)

**From:** Laura Benz & Andrea Gray

**Date:** December 11, 2018

**Re:** S. Fulton Authority Project Update

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**Water Withdrawal Application/Process:** By email dated November 6, 2018, EPD requested that the three cities file a joint, revised application which incorporates the 2003 Operations Agreement, and “written confirmation of responsibility for overall compliance with permit conditions.”

On November 13<sup>th</sup>, 26<sup>th</sup>, December 3<sup>rd</sup> and 6<sup>th</sup>, the Authority, Fairburn, Palmetto and Union City all adopted mirror resolutions which confirm that:

1. Each Mayor is authorized to sign and submit to EPD a joint water withdrawal application with the other Member Cities to withdraw 13.25 mgd from the Chattahoochee River;
2. Per the 2003 Operations Agreement, the Authority will construct, own and operate the intake on the Chattahoochee River, pumps, pipelines, water treatment plant and distribution lines to each Member City;
3. The Authority will operate a wholesale water system and be responsible for overall compliance with all EPD water withdrawal permit conditions;
4. Each City operates its own retail water system and will continue to meet its individual EPD reporting requirements; and
5. Each Mayor is authorized to execute any documents necessary to transfer ownership of a water withdrawal permit to the Authority upon the approval of the SDS by DCA resulting in the Authority becoming an eligible Permittee.

The Authority’s consultants made minor revisions to the permit application form, Water Conservation & Drought Contingency Plan, and Interbasin Transfer Analysis, packaged it with the resolutions, and submitted two hard copies and one electronic copy to EPD on December 5, 2018. EPD immediately confirmed receipt by email and stated that it would be after the Authority’s meeting before it could provide draft permit conditions. The Authority will continue to pursue obtaining the permit before the end of 2018.

**Treatability Analysis:** An engineering report will be required as a part of the Water System Permit (a separate permit required to operate the system which is issued upon construction of the facilities).

**SWAP:** ARC is continuing to assemble data and anticipates another update meeting for the parties in the next several months. Its analysis will continue over the next 14 months with the anticipation of meeting the January 1, 2020 deadline.

### **Compensatory Mitigation**

**Site Specific Sites:** The Mitigation Bankers continue to work through the mitigation bank authorization process and the coordination with new regulatory guidance.

Resale of Mitigation Credits: The Authority purchased the required stream and wetland credits associated with the proposed Bear Creek Reservoir from three mitigation banks: Chattahoochee (4,495 stream and 3.74 wetland credits), Blue Creek (108,532.55 stream credits) and the Monastery (42.54 wetland credits). Since the Authority is currently pursuing a direct water withdrawal, it will not need all of the credits it purchased. At most, it will need enough credits to cover approximately 445 linear feet of stream impacts associated with the water distribution line if it chooses not to avoid these impacts by directional boring as originally proposed. Current Corps regulations limit the Authority's options for use of the surplus credits to either applying them as mitigation for its own impacts or re-selling them to the mitigation bank owner.

Given the high demand and low supply of mitigation credits in the current market, Blue Creek and Monastery Mitigation Banks have made a proposal to market and sell the stream and wetland credits the Authority purchased in exchange for a base compensation to cover the Authority's initial investment plus a royalty payment based on the sales price. The Chattahoochee Bank has not made an offer but given the potential for impacts associated with the water distribution line, it would be prudent to hold onto the credits at this bank for the time being.

The Blue Creek Mitigation Bank offer is being considered with a base price of \$18.50 per credit plus a royalty of 8% if the purchase price is less than \$65/credit and 10% if the purchase price is at or greater than \$65/credit. For each stream credit transaction on Blue Creek Mitigation Bank ledger, the Authority credits will comprise 30% of each stream credit transaction until such time as the USACE approves the modification of the Blue Creek Mitigation Banking Instrument. Upon USACE written approval of the Mitigation Banking Instrument, the percentage of Authority credits allocated to each credit transaction shall be calculated as the percentage of the Authority's 108,532.55 credits to the total remaining credits indicated in the MBI. This percentage shall apply to the balance of the Authority's credits until all have been debited from the Blue Creek Mitigation Bank ledger.

The Monastery Mitigation Bank offer is contingent on Corps' approval of the transfer of the mitigation bank sponsorship. Wetlands Management, the current sponsor of record, sold credits in violation of its initial agreement with the Monastery. The Monastery pursued litigation which resulted in a settlement agreement between the Monastery and Wetlands Management mandating that the Monastery be named the bank sponsor contingent on Corps' approval. Assuming this contingency is met, the offer is being considered with a base price of \$12,000/credit plus a royalty of 15%. If the Monastery wishes to sell credits for less than \$50,000/credit, then the Authority must consent in writing.

**New Waters of the US Rule:** Announced today, December 11, 2018, and is being published for a 60-day comment period. The new definition identifies six categories:

1. Traditional navigable waterways: Will remain federally regulated as they have since the original 1980 regulation.
2. Tributaries to traditional navigable waterways: Only federally regulated if they contribute flow to a traditional navigable waterway in a typical year (on a 30-year basis). Ephemeral features are excluded.
3. Ditches: (a) ditches that function like a traditional navigable waterway, such as the Erie Canal, will be federally regulated; and (b) only ditches that contribute flow to a traditional navigable waterway in a typical year are regulated.
4. Lakes and ponds: Will be regulated if they contribute flow to a traditional navigable waterway in a typical year.
5. Impoundments: Impoundments such as check dams and perennial rivers that form lakes and ponds behind them have been regulated since the 1986 regulation and will continue to be federally regulated.
6. Adjacent wetlands: Wetlands that have a direct hydrological surface connection to another water of the U.S. in a typical year are federally regulated.

The rule specifically excludes any waters that are not included in the six regulated categories above. It also explicitly excludes groundwater, prior converted cropland, water control features and artificially irrigated areas like fields flooded for cranberry growing.