

TABLE OF CONTENTS

RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL

June 14, 2012

PAGES

- I RIGHT OF WAY OCCUPANCY NEW PERMITS:** 2
Governing Board action is required for routine requests for permits which conform to applicable rules for utilization of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for approval.
- II RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS:** - 3
Governing Board action is required for routine requests which involve a change, addition or deletion to a use of the right of way which was previously permitted. Items are placed on this Consent Agenda when the staff's recommendation is for approval.
- III RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA:** - 4
Governing Board action is required on petitions received requesting a waiver of District criteria. Section 120.542, F.S. and Rule 28-104.002, F.A.C., requires agencies to grant variances and waivers to their own rules when a person subject to the rules files a petition and demonstrates that he or she can achieve, or has achieved, the purpose of the underlying statute by other means and when application of rule would create a substantial hardship or would violate principles of fairness. A "substantial hardship" is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. A "waiver" is defined as an agency decision not to apply all or part of a rule to the person subject to the rule.

RIGHT OF WAY OCCUPANCY NEW PERMITS

1. LAURIE SENZ
COUNTY BROWARD

Permit Number 14012
Appl No. 12-0430-1
Easement

AUTHORIZING:
PROPOSED FENCE ENCLOSURE ENCROACHING 78' (60' FROM TOP OF CANAL BANK) WITH EXISTING NATURAL NATIVE TREE WITHIN THE FENCING LOCATED WITHIN THE SOUTH RIGHT OF WAY OF THE HILLSBORO CANAL AT THE REAR OF 3887 N.W. 7TH PLACE (LOTS 18 AND 19, BLOCK 1B, THE VILLAGES OF HILLSBORO SECTION TWO).

LAST DATE FOR BOARD ACTION: **Aug., 2012**

2. JOSEPH P. SR. AND SUSAN S. HANCOCK
COUNTY OKEECHOBEE

Permit Number 14003
Appl No. 11-0525-1
Fee

AUTHORIZING:
EXISTING DOCK WITHIN THE EAST RIGHT OF WAY OF C-59 AT THE REAR OF 5341 SE 64TH AVENUE (LOT 9, ANCIENT OAKS RV RESORT NO. IV, BLOCK 32).

LAST DATE FOR BOARD ACTION: **June, 2012**

3. JUDY JORDAN AND JENNIFER T. BURNS
COUNTY OKEECHOBEE

Permit Number 14009
Appl No. 12-0118-1
Fee

AUTHORIZING:
EXISTING BOAT SLIP, LANDSCAPING, LIGHT POLE, AND THE REPLACEMENT OF AN EXISTING DOCK AND 100 L.F. SEAWALL WITHIN THE NORTH RIGHT OF WAY OF LD-4, AT THE REAR OF 860 HIGHWAY 441 S.E.

LAST DATE FOR BOARD ACTION: **June, 2012**

4. ST. LUCIE COUNTY
COUNTY ST. LUCIE

Permit Number 14010
Appl No. 12-0319-1
Easement

AUTHORIZING:
ASSUME OWNERSHIP OF DISTRICT CULVERT 02C LOCATED WEST OF NORTH 51ST STREET, DISTRICT CULVERT 02B LOCATED WEST OF NORTH 45TH STREET AND DISTRICT CULVERT 02A (TO BE REPLACED) LOCATED WEST OF NORTH 41ST STREET AND THREE EXISTING CULVERTS LOCATED AT NORTH 49TH STREET, EAST OF NORTH 47TH STREET AND EAST OF NORTH 42ND STREET (TO BE REPLACED) WITHIN THE NORTH RIGHT OF WAY OF C-25, SERVING HARMONY HEIGHTS.

LAST DATE FOR BOARD ACTION: **June, 2012**

RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. MIAMI-DADE COUNTY PARK AND RECREATION
COUNTY: MIAMI-DADE

Permit Number 8026
Appl. No. 12-0308-2M
Fee & Easement

AUTHORIZING:

EXISTING BOLLARDS WITHIN THE NORTH RIGHT OF WAY OF C-1 LOCATED
DOWNSTREAM OF DISTRICT WATER CONTROL STRUCTURE S-21 AS PART OF THE
COUNTY'S "BISCAYNE TRAIL SEGMENTS A AND B".

LAST DATE FOR GOVERNING BOARD ACTION: **June, 2012**

2. MIAMI-DADE COUNTY PARK AND RECREATION
COUNTY: MIAMI-DADE

Permit Number 7187
Appl. No. 12-0308-2M-A
Fee & Easement

AUTHORIZING:

EXISTING RELOCATED SHADE SHELTER AND APPURTENANCES WITHIN THE EAST
RIGHT OF WAY OF L-31E ADJACENT TO S.W. 244TH STREET AS PART OF THE COUNTY'S
"BISCAYNE TRAIL SEGMENTS A & B".

LAST DATE FOR GOVERNING BOARD ACTION: **June, 2012**

3. T. PETER AND MELANIE L. DOWNING
COUNTY: ST. LUCIE

Permit Number 12694
Appl. No. 12-0409-1
Easement

AUTHORIZING:

EXISTING BOAT LIFT WITHIN THE WEST RIGHT OF WAY OF C-23A AT THE REAR OF
12158 RIVERBEND ROAD (LOT 3 LESS TRACT D, BAY ST. LUCIE).

LAST DATE FOR GOVERNING BOARD ACTION: **June, 2012**

RIGHT OF WAY OCCUPANCY REQUESTS WITH WAIVER OF DISTRICT CRITERIA

1. Consideration of a request by **Brian and Tammy Rayfield**, (Application Number 11-0818-3, Permit Number 14011), for issuance of a Right of Way Occupancy Permit and waiver of District criteria to allow an existing dock with pier, boat lifts, pilings and electric and water service within the south right of way of C-16 at the rear of the east 25' of Lot 42 and the west 6' of Lot 43, Harbor Estates to remain. Location: Palm Beach County, Section 22, Township 45 South, Range 43 East.

The applicant's request for waiver of the District's criteria, which governs the minimum low member elevation of pile-supported docking facilities within Works and Lands of the District is based on "substantial hardship" and "principles of fairness". The applicant asserts that the entire dock structure would have to be demolished and replaced to comply with the District's criteria. The applicant also asserts nearby docks with low member elevation deficiencies have been allowed to remain and permitted. The existing dock is located downstream of the District's S-41 Water Control Structure and as such, will not interfere with the District's operations and maintenance activities. The adjacent overbank is not accessible for land-based equipment and no overbank maintenance is performed.

The District's Operations Maintenance and Construction Division has reviewed the project and determined that the existing facilities do not interfere with their ability to perform necessary construction, alteration, operation and routine maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to section 120.542(6), F.S., notice of the petition was provided to the Department of State and was published in *Volume 38, Number 18* of the *Florida Administrative Weekly* on *May 4, 2012*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 14011 and **approval** of the petition for waiver of the District's criteria which governs the minimum low member elevation of pile-supported docking facilities within Works or Lands of the District.

(Fee)
