

**Minutes of the Middle Chattahoochee Regional Water  
And Sewer Authority Meeting Held on September 08<sup>th</sup>, 2020,  
VIA: WWW.ZOOM.COM  
Zoom ID: 938 5399 6492**

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

**BOARD MEMBERS ABSENT:** None

**Consultants Present:** Dennis Davenport, Dan Post, Laura Benz, Andrea Gray, David Gran and Tom Owens

**Others Present:** None

**Call To Order:** Chairwoman Shayla J. Nealy called the meeting to order at 6:30 PM.

**Approval Of The Minutes:** A motion was made by Sonja Fillingame to approve the minutes of the August 11th, 2020 meeting, seconded by Vince R. Williams. A vote was taken, the motion passed unanimously.

**New Business:** None

**Old Business:** None

**Reports:**

**Legal** – Dennis Davenport updated the Board on the Working Group meetings.

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

1. The August 2020 financial statement.

2. Requested approval for draw number 209 in the amount of \$10,545.86 from the construction account.

J. Clark Boddie made a motion to approve draw number 209 in the amount of \$10,545.86 from the construction account seconded by Vince R. Williams. 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. Water Withdrawal Application Process:
  - a. Water Authority Permit
    - i. Water loss control program
    - ii. Annual and Monthly requirements
  - b. Treatability Analysis
  - c. SWAP
  - d. RFP
  - e. Next Steps
2. Compensatory Mitigation:
  - a. Site Specific Sites
  - b. Mulberry Creek
  - c. White Sulphur Creek
  - d. Credits Reserved for Authority needs
  - e. Resale Of Mitigation Credits
    - i. Monastery
    - ii. Blue Creek
3. Other/MISC:
  - a. Waters Of The US (WOTUS)
4. Water Wars Litigation Update
5. Reservoir Land

David Gray and Tom Owens reviewed with the Board the financial advisory services for the Authority

**Executive Session:** None

Chairwoman Shayla J. Nealy requested that Beth Williford poll the Board members as to whether to return to face to face meetings.

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

The meeting adjourned at 7:30 PM

---

Shayla J. Nealy, Chairwoman

October 13<sup>th</sup>, 2020

Date Minutes Approved by Board

## MEMORANDUM

**To:** Middle Chattahoochee Regional Water & Sewer Authority Member Cities Councils (Fairburn, Palmetto and Union City)

**From:** Laura Benz & Andrea Gray

**Date:** August 31, 2020 for September 8, 2020 meeting

**Re:** Middle Chattahoochee Authority Project Update

---

### **Water Withdrawal Application/Process:**

*Water withdrawal permit:* The permit issued on July 27, 2020. There were no challenges received via email or overnight delivery service as of the statutory deadline. Per EPD, it will wait 10-14 days for any challenges delivered via regular US Mail service before conclusively determining no challenges were made to the permit.

As a condition of the permit, each City must have a water lost control program established within six (6) months of permit issuance, January 28, 2021. Email reminders will be sent on the 1<sup>st</sup> of each month to each of the three Cities' utility Directors as a reminder to be working on the required program.

*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:* EPD provided additional revisions which are being incorporated to the SWAP documents. No additional revisions were made to the Authority SWAP. ARC will provide a final version once approved by EPD.

*Next Steps:* Issue RFP for preliminary engineering work on September 9, 2020, refine the budget and cost estimates accordingly and evaluate sources of funds including additional GEFA loans.

### **Compensatory Mitigation**

Mulberry Creek Site in Harris County, Georgia (41.04 acres): The Authority received a \$5,000.00 extension payment from Mitigation Management for the closing to occur on or before December 31, 2020. The purchase price for the property is \$5,000 per acre with a 4% royalty on the total credit sale price.

White Sulphur Creek Site in Meriwether County, Georgia (31.03 acres): The property was purchased by the Authority in 2009, a Mitigation Easement and Declaration of Restrictive Covenants were placed on the property in February 2016 before the Authority conveyed fee simple interest back to James & Terrell Strickland. The Stricklands are not interested in purchasing the mitigation easement and Blueway mitigation bankers opted not to purchase the site simultaneously with the Mulberry Creek (Harris County) property.

We reached out to bankers for potential remarketing and the consensus was that additional agricultural maintenance is required to justify the desired credit generation.

*Credits reserved for Authority needs:* The Authority is holding credits it purchased from the Chattahoochee Mitigation Bank (4,495 stream and 3.74 wetland credits), pending final determination of any impacts associated with the direct withdrawal, associated infrastructure and distribution pipelines.

### Resale of Mitigation Credits:

Monastery: All credits have been sold or reserved. The Authority has received \$792,600.00 and will receive \$44,850 upon closing the remaining 2.30 reserved credits. Upon closing on the final credits, the Authority will have recouped its initial investment in the credits with an additional \$326,970.00 of profit.

Blue Creek: Closing occurred on 271.57 credits with a check issued on July 8, 2020 in the amount of \$6,218.89. There are 14,433.22 stream credits currently reserved for \$328,838.39 due to the Authority upon closing the transactions.

### **Other/Miscellaneous**

Website. The Authority's new website is [www.middlechattwaterandsewer.com](http://www.middlechattwaterandsewer.com).

Financial Consultant: Raymond James was brought up to speed on August 27, 2020. A financing assessment will be provided by Raymond James at the September 8<sup>th</sup> Authority meeting.

Waters of the US (WOTUS). The proposed final rule for the WOTUS was published in the federal register on Tuesday, April 21, 2020 and became effective on June 22, 2020. There have been multiple cases filed challenging the narrower definition of WOTUS claiming that it contradicts water law, Supreme Court precedent, and the EPA's own scientific findings. The request for a national injunction was denied leaving injunctions to be jurisdiction specific. The only state where an injunction is currently effective is Colorado. Additional guidance for implementing the rule is expected in the next few months.

### **Waters Wars Litigation Update**

All documents and replies have been filed and the parties are currently waiting for oral arguments to be scheduled.

### **Reservoir Land**

Per the Fulton County Tax Assessor records, the Authority owns 430.21 acres comprised of 11 parcels. Approximately 396.61 acres were purchased from Oracle Fulton Land, LLC (ie Carl Bouckaert) and 33.6 acres were purchased from other property owners. The terms of the Bouckaert repurchase option and right of first refusal are governed by the MOU dated September 20, 2010.

Per the terms of the MOU, Carl Bouckaert had the option to repurchase the property purchased from him if the Authority failed to commence construction of the Reservoir by July 1, 2020, so long as he provided written notice of his intent to do so. No written notice was received, which allows the Authority the ability to market the property for sale if it should choose to do so. Bouckaert has a right of first refusal for a period of ten years, until July 1, 2030. Recently, the Chattahoochee RiverLands trail project released its planned location which shows the preferred alignment going through the Authority property. This proposal could greatly impact the marketability and value of the land and is attached for your file.

Following the Preliminary Engineering study, the Authority should be able to determine how much land it needs to reserve to accommodate the direct withdrawal and associated water treatment plant and other infrastructure. Once determined, the Authority may consider selling all or a portion of the remaining property, however easements for the dam breach zone and 150' buffer area will likely not be marketable since the Authority does not hold the underlying land. Nothing shall prevent the Authority from granting easements, covenants, licenses, leases or other interests in the property or parts thereof as permitted by the Agreement. Below is a summary of the property rights the Authority is likely to retain as identified in the previously distributed August 14, 2019 memorandum:

- Water withdrawal intake property (1.0 acre)
- Water treatment plant property (18.0 acres)
- Access road to dam (60 ft construction; 40 ft permanent) to access near withdrawal
- 2 x 50' pipeline easements
- Access to water treatment plant site (non-exclusive 60' wide easement)
- Water withdrawal pipeline and access easement (50' wide easement from water withdrawal intake land to old reservoir site) (note: there will need to be a pipeline through the reservoir area to provide a connection between the withdrawal and the treatment site since the original concept was to have the pipeline at the base of the dam and then at the upper end of the reservoir adjacent to the treatment plant)

**South Fulton Municipal Regional Water & Sewer Authority Mitigation Credit Sales**

updated 8-11-2020

**Stream Credits from Blue Creek Mitigation Bank**

Total Credits Purchased by Authority	108,532.55
Base Value Paid by Authority per credit	\$18.50
Total Investment	\$2,007,852.18
Royalty Amount	8%
Credits sold or reserved as of 8/11/2020	15,450.96
Money received as of 8/11/2020	\$22,205.17

<i>Purchaser Name</i>	<i>Stage</i>	<i>Number of Credits</i>	<i>Price Per Credit</i>	<i>Total Purchase Price</i>	<i>Refund at \$18.50/credit</i>	<i>Royalty at 8%</i>	<i>Total Revenue</i>	<i>Payment Received</i>	<i>Credit Release Sent to Corps</i>
Genesee Subdivision	Closed	629.91	\$35.00	\$22,046.85	\$	11,653.34	\$1,763.75	\$13,416.98	12/20/2019 Feb 2 2020
Fulton Industrial Park Phase 1	Closed	116.26	\$45.00	\$5,231.70	\$	2,150.81	\$418.54	\$2,569.30	12/20/2019 Feb 2 2020
Palmetto Industrial	Reserved	2102.86	\$40.00	\$84,114.40	\$	38,902.91	\$6,729.15	\$45,632.06	Pending Closing Pending Closing and Payment
Grove Park Stream Buffer Mitigation	Closed	271.57	\$55.00	\$14,936.35	\$	5,024.05	\$1,194.91	\$6,218.89	7/8/2020 30-Jul-20
Carroll County Water Authority	Reserved	12330.36	\$55.00	\$678,169.80	\$	228,111.66	\$54,253.58	\$282,365.24	Pending Closing Pending Closing and Payment
Totals		15,450.96							
Balance of Credits Remaining		93,081.59							

**Wetland Credits from Monastery of the Holy Spirit**

Total Credits Purchased by Authority	42.54
Base Value Paid by Authority per credit	\$12,000.00
Total Investment	\$510,480.00
Royalty Amount if \$50K/credit or less	15%
Royalty Amount if over \$50K/credit	20%
Credits sold or reserved as of 8/11/2020	42.54
Money received as of 8/11/2020	\$792,600.00

<i>Purchaser Name</i>	<i>Stage</i>	<i>Number of Credits</i>	<i>Price Per Credit</i>	<i>Total Purchase Price</i>	<i>Refund at \$12,000/credit</i>	<i>Royalty at 15% or 20%</i>	<i>Total Revenue</i>	<i>Payment Received</i>	<i>Credit Release Sent to Corps</i>
SAIA Motor	Withdrew		\$ 50,000.00	\$ -	\$ -	\$ -	\$ -		
Brandy Lane Realignment and Pipe Replacement	Closed	3.68	\$ 50,000.00	\$ 184,000.00	\$ 44,160.00	\$ 27,600.00	\$ 71,760.00	Paid	April 14 2020
Publix	Reserved	2.30	\$ 50,000.00	\$ 115,000.00	\$ 27,600.00	\$ 17,250.00	\$ 44,850.00	Credits Reserved	Pending closing and payment
Forsyth County	Closed	22.32	\$ 50,000.00	\$ 1,116,000.00	\$ 267,840.00	\$ 167,400.00	\$ 435,240.00	Paid	April 14 2020
City of Gainesville	Closed	8.96	\$ 50,000.00	\$ 448,000.00	\$ 107,520.00	\$ 67,200.00	\$ 174,720.00	Paid	April 14 2020
GDOT PI # 0008430	Closed	5.28	\$ 60,000.00	\$ 316,800.00	\$ 63,360.00	\$ 47,520.00	\$ 110,880.00	Paid	30-Jul-20
DR Horton	Withdrew		\$ 50,000.00	\$ -	\$ -	\$ -	\$ -		
Totals		42.54			\$ 510,480.00	\$ 326,970.00	\$ 837,450.00		
Balance of Credits Remaining		0.00							