

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

AUGUST 30, 2016

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m. August 30, 2016, at the District's Tampa Office. The following persons were present:

Board Members Present

Randall S. Maggard, Chair
Jeffrey M. Adams, Vice Chair
Bryan K. Beswick, Secretary
Ed Armstrong, Treasurer
H. Paul Senft, Member
Michael A. Babb, Member
Kelly S. Rice, Member
John Henslick, Member
Michelle Williamson, Member
Mark Taylor, Member

Board Members Absent

George W. Mann, Member
Michael A. Moran, Member

Staff Members

Brian J. Armstrong, Executive Director
David T. Rathke, Chief of Staff
Karen E. West, General Counsel
Kurt P. Fritsch, Inspector General
John J. Campbell, Division Director
Ken L. Frink, Division Director
Mark A. Hammond, Division Director
Alba E. Más, Division Director

Board's Administrative Support

Cara Martin, Board & Executive Services Manager
Lori Manuel, Administrative Assistant

A list of others present who signed the attendance roster is filed in the permanent records of the District. This meeting was available for viewing through Internet streaming. Approved minutes from previous meetings can be found on the District's Web site (www.WaterMatters.org).

PUBLIC HEARING (Audio – 00:00)

1. Call to Order

Chair Randall Maggard called the meeting to order and opened the public hearing. Secretary Bryan Beswick stated a quorum was present.

2. Invocation and Pledge of Allegiance

Board Member Senft offered the invocation. Chair Maggard led the Pledge of Allegiance to the Flag of the United States of America.

Chair Maggard introduced each member of the Governing Board. He noted that the Board meeting was recorded for broadcast on government access channels, and public input was only taken during the meeting onsite.

Chair Maggard stated that anyone wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda should fill out and submit a "Request to Speak" card. To assure that all participants have an opportunity to speak, a member of the public may submit a speaker's card to comment on agenda items only during today's meeting. If the speaker wishes to address the Board on an issue not on today's agenda, a speaker's card may be submitted for comment during "Public Input." Chair Maggard stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute-limit may be granted by the chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson.

2a. Oath of Office for Newly Appointed or Reappointed Board Members

Ms. Cara Martin, Board and Executive Services Manager, administered the Oath of Office for Board Members Bryan Beswick, Michelle Williamson and Mark Taylor.

3. Employee Recognition

Chair Maggard recognized employees who have reached at least 20 years of service with the District and thanked them for their service. The following staff were recognized: Amissa Smith and Allen Yarborough.

This item was provided for the Board's information, and no action was required

4. Additions/Deletions to Agenda

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer.

Mr. Brian Armstrong, Executive Director, stated there were no changes to the agenda.

5. Public Input for Issues Not Listed on the Published Agenda

Chair Maggard noted at this time, the public is given an opportunity to comment on any topic not listed on the agenda.

Chair Maggard stated he received two Request to Speak cards.

Mr. David Glogowski spoke regarding concern for levels associated with Lake Henry.

Mr. David Ballard Geddis, Jr., spoke against the Pinellas County ad valorem property tax/water levy.

CONSENT AGENDA

Chair Maggard asked that before the Board considers action on the Consent Agenda whether there is anyone in the audience who wishes to address the Board regarding an item listed on the Consent Agenda.

Chair Maggard stated he received two Request to Speak cards for the following item, which was moved to discussion:

General Counsel's Report

15. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval

a. Order of Dismissal with Prejudice of Second Amended Request for Administrative Hearing – Ellen R. Dugan v. Southwest Florida Water Management District and SWR Properties, LLC - Water Use Permit No. 20020576.000

Staff recommended the Board enter an order dismissing the Second Amended Petition with Prejudice.

Chair Maggard said there is good cause to amend the published agenda as allowed by Section 120.525, Florida Statutes. A motion was made to approve the amendments to the published agenda, as amended, which was seconded. The motion carried unanimously. (Audio 00:06:53)

Finance/Outreach & Planning Committee

6. Fiscal Year (FY) 2015-16 Board Designated Encumbrance Request

Staff recommended the Board Approve the encumbrance of \$1 million to roll into FY2016-17 for potential staff merit increases and/or performance incentives in accordance with Board Policy 710-3.

7. Board Encumbrance to the Fleet Equipment Replacement Fund

Staff recommended the Board encumber \$48,640 of funds budgeted in FY2016 to procure field equipment in FY2017 via the Field Equipment Replacement Fund.

8. Budget Transfer Report

Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for July 2016.

Resource Management Committee

9. Lake Jackson Watershed Hydrology Investigation Project (N554) Scope Change and Time Extension

Staff recommended the Board approve the revised project scope and time extension from June 30, 2019 to December 31, 2019.

10. Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Adopt Minimum and Guidance Levels for Big Fish Lake, Pasco County (P256)

Staff recommended the Board:

- A. Accept the report entitled, "Proposed Minimum and Guidance Levels for Big Fish Lake in Pasco County, Florida."
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- C. Initiate and approve rulemaking to amend Rule 40D-8.624, F.A.C., to replace the previously approved Minimum and Guidance Levels with the proposed Minimum and Guidance Levels for Big Fish Lake in Pasco County as shown in the Exhibit.

11. Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Adopt Revised Minimum and Guidance Levels for Lake Dan in Hillsborough County (P256)

Staff recommended the Board:

- A. Accept the report entitled, "Proposed Minimum and Guidance Levels for Lake Dan in Hillsborough County, Florida."
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- C. Initiate and approve rulemaking to amend Rule 40D-8.624, F.A.C., to replace the previously approved Minimum and Guidance Levels with the proposed Minimum and Guidance Levels for Lake Dan in Hillsborough County as shown in the Exhibit 13.

12. Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Adopt Revised Minimum and Guidance Levels for Sunset Lake in Hillsborough County (P256)

Staff recommended the Board:

- A. Accept the report entitled, "Proposed Minimum and Guidance Levels for Sunset Lake in Hillsborough County, Florida."
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- C. Initiate and approve rulemaking to amend Rule 40D-8.624, F.A.C., to replace the previously approved Minimum and Guidance Levels with the proposed Minimum and Guidance Levels for Sunset Lake in Hillsborough County as shown in the Exhibit. See Exhibit.

13. FARMS - Hinton Family LLC (H742), Hillsborough County

Staff recommended the Board:

- 1) Approve the Hinton Family LLC project for a not-to-exceed project reimbursement of \$252,897 provided by the Governing Board.
- 2) Authorize the transfer of \$252,897 from fund 010 H017 Governing Board FARMS Funds to the H742 project fund;
- 3) Authorize Executive to sign the agreement.

Regulation Committee

14. Individual Water Use Permits Referred to the Governing Board - None

Operations, Lands and Resource Monitoring Committee

General Counsel's Report

15. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval

- a. ~~Order of Dismissal with Prejudice of Second Amended Request for Administrative Hearing — Ellen R. Dugan v. Southwest Florida Water Management District and SWR Properties, LLC - Water Use Permit No. 20020576.000~~

~~Staff recommended the Board enter an order dismissing the Second Amended Petition with prejudice.~~

16. Rulemaking – None

Executive Director's Report

17. Approve Governing Board Meeting Minutes - July 26, 2016

18. Annual Calendar of Fiscal Year 2016-17 Meeting Dates

A motion was made and seconded to approve the Consent Agenda as amended. Motion carried unanimously. (Audio 00:07:10)

Chair Maggard relinquished the gavel to the Finance/Outreach & Planning Committee Chair Armstrong who called the Committee meeting to order. (Audio 00:07:28)

Finance/Outreach & Planning Committee

Discussion

19. Consent Item(s) Moved for Discussion - None

***Submit & File Reports* - None**

Routine Reports

The following items are provided for the Committee's information, and no action is required.

20. Treasurer's Report and Payment Register

21. Monthly Financial Statement

22. Monthly Cash Balances by Fiscal Year

23. Comprehensive Plan Amendment and Related Reviews Report

Committee Chair Armstrong adjourned the meeting and relinquished the gavel to the Resource Management Committee Chair Babb who called the Committee meeting to order. (Audio 00:17:55)

Resource Management Committee

Discussion

24. Consent Item(s) Moved for Discussion - None

25. South Pass-A-Grille Way Water Quality & Flood Improvements Project (N712)

Mr. Mark Hammond, Resource Management Director, provided the Board with information on District requirements for large capital cooperative funding projects (five million dollars or greater). These projects require a 30 percent design and a third party review.

Mr. JP Marchand, Water Resource Bureau Chief, provided a presentation on South Pass-A-Grille Way Project. This presentation included: project description; third party sequential review process; and project costs estimated for pre- and post- party review.

Staff recommended the Board:

1. Approve the City's request to move forward with final design and construction of the South Pass-A-Grille Way Water Quality & Flood Improvements Project (N712).
2. Authorize staff to enter into an amendment for the project with a total project budget of \$6,426,000 with the District funding a total of \$3,213,000.
3. Authorize the amendment to be effective as of the date of the Board's approval of this request.

A motion was made and seconded to approve staff's recommendation. Motion carried unanimously. (Audio 00:31:48)

Submit & File Reports

26. Proposed Minimum Flow for the Rainbow River System Prior to Independent Scientific Peer

27. Proposed Minimum Flow Updates Prior to Submission for Scientific Peer Review for the Pithlachascotee River (B805 & B806)

28. Minimum Flows and Levels Priority List and Schedule Update

Routine Reports

The following items are provided for the Committee's information, and no action is required.

29. Minimum Flows and Levels Status Report

30. Significant Water Resource and Development Projects

Committee Chair Babb adjourned the meeting and relinquished the gavel to the Regulation Committee Chair Senft who called the Committee meeting to order. (Audio 00:34:29)

Regulation Committee

Discussion

31. Consent Item(s) Moved for Discussion - None

32. Denials Referred to the Governing Board

If any denials are requested to be referred to the Governing Board, these will be presented at the meeting.

Submit & File Reports – None

Routine Reports

The following items are provided for the Committee's information, and no action is required.

33. Overpumpage Report

34. Individual Permits Issued by District Staff

Committee Chair Senft adjourned the meeting and relinquished the gavel to the Operations, Lands & Resource Monitoring Committee Chair Beswick who called the Committee meeting to order. (Audio 00:35:28)

**Operations, Lands & Resource Monitoring Committee
Discussion**

35. Consent Item(s) Moved for Discussion - None

36. Approval of Revisions to District Policies – 610-1, Land Acquisition and 610-4, Sale, Exchange or Conveyance of Interests in Lands by the District

Ms. Carmen Sanders, Land Resources Manager, provided a presentation that included: an overview of policies 610-1 and 610-4; legislative updates associated to policy 610-1; proposed changes associated with policies 610-1 and 610-4; and efficiencies associated with proposed revisions.

Ms. Sanders provided an explanation of net gain value. She explained it is evaluated on a case-by-case basis which could involve environmental or financial gains.

Staff recommended the Board approve revisions to District Policies 610-1, Land Acquisition; and 610-4, Sale, Exchange or Conveyance of Interest in Lands by the District.

A motion was made and seconded to approve staff's recommendation. Motion carried unanimously. (Audio 00:41:54)

37. Approve Assignment of Option Agreement, Purchase of a Perpetual Conservation Easement and Resolution Requesting Funds from the Florida Forever Trust Fund – Upper Myakka River Project, SWF Parcel No. 21-598-114C

Ms. Carmen Sanders, Land Resources Manager, provided a presentation that included: history of this proposed purchase; outline of property area; how this project meets the District's core mission; and information on negotiation for this project.

Ms. Sanders explained this is a conservation easement that involves over 1,088 acre that borders Manatee and Sarasota counties. She also outlined how the project meets the District's core mission through water quality, flood protection, and natural systems.

Mr. Charles Lee, representative from Audubon Florida, spoke in favor of this project.

Staff Recommended the Board:

- Accept the appraisals;
- Approve the Option of Assignment Agreement and authorize the Executive Director to sign on behalf of the District;
- Approve the Perpetual Conservation Easement and authorize the Executive Director to sign on behalf of the District;
- Approve the resolution requesting funds for SWF Parcel No. 21-598-114C in the amount of \$2,000,000 from the Florida Forever Trust Fund;
- Designate SWF Parcel No. 21-598-114C as having been acquired for conservation purposes;
- Authorize staff to make minor changes or corrections to conform documents or correct errors; any substantive changes will be brought to the Governing Board for review and approval; and
- Approve staff to sign documents at closing that are necessary to complete the transaction in accordance with the approved terms.

A motion was made and seconded to approve staff's recommendation. Motion carried unanimously. (Audio 00:49:55)

38. Hydrologic Conditions Report

Mr. Granville Kinsman, Hydrologic Data Manager, presented the hydrologic conditions report. For the month of July, most regions experienced normal rainfall, with the exception of the northern region which experienced much drier than normal conditions. August has also been drier in much of the eastern half of the District. As a result, hydrologic conditions are much better in the central and southern counties than in the northern counties of the District. Groundwater levels are declining District-wide, but remain in the upper range of normal in the central and south, and the lower end of normal in the north. Lake levels in the northern region are below-normal, but Tampa Bay lakes, Polk Upland lakes, and Lake Wales Ridge lakes all remain in the normal range. Rivers are declining, and the Withlacoochee River is near the bottom of the normal range. The Hillsborough, Alafia and Peace Rivers remain in the normal range. The Bill Young and Peace River Reservoirs are nearing full capacity. The Climate Prediction Center is forecasting normal rainfall for September through November. The La Niña forecast is weakening, which may lessen the impact of drier-than-normal conditions predicted for the winter and spring.

This routine report provided information on the general state of the District's hydrologic conditions, by comparing rainfall, surface water, and groundwater levels for the current month to comparable data from the historical record. This item was presented for the Board's information, and no action was required.

This item was provided for the Board's information only, and no action was required.

Submit & File Reports

39. Surplus Lands Biennial Assessment Quarterly Update

Routine Reports

The following items are provided for the Committee's information, and no action is required.

40. Structure Operations

41. Significant Activities

Committee Chair Beswick adjourned the meeting and relinquished the gavel. (01:07:39)

General Counsel's Report

Discussion

42. Consent Item(s) Moved for Discussion

15. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval

- a. **Order of Dismissal with Prejudice of Second Amended Request for Administrative Hearing – Ellen R. Dugan v. Southwest Florida Water Management District and SWR Properties, LLC - Water Use Permit No. 20020576.000**
Mr. Mike Bray, Assistant General Counsel, provided a presentation regarding the order of dismissal with prejudice of second amended request for administrative hearing for water use permit no. 20020576.000. This presentation included: historical information on the initial petition filed; statutory language associated with the petition filing; information regarding deficiencies associated with first amended petition filing; and information associated with second amended petition filing.

Ms. Ellen Dugan addressed the Board regarding the dismissal of her petition for administrative hearing. Ms. Dugan asked for the Board's direction to address concerns related to this permit.

Staff recommended the Board enter an order dismissing the Second Amended Petition with prejudice

A motion was made and seconded to approve staff's recommendation. Motion carried

unanimously. (Audio 00:01:27)

43. Annual Sunshine Law Refresher

Mr. Kevin Wimmer, Senior Attorney, provided a presentation that included: requirements of the sunshine law; what is considered a sunshine meeting; the scope of the sunshine law; definition of "shade" meetings; penalties associated with violations; overview of Florida public records law; record retention policies; examples of recent cases and developments; and the ten commandments of the sunshine law.

This item is presented for the Board's information, and no action is required.

Submit & File Reports – None

Routine Reports

The following items are provided for the Committee's information, and no action is required.

44. August 2016 – Litigation Report

45. August 2016 – Rulemaking Update

Committee/Liaison Reports

46. Other Committee/Liaison Reports

47. Public Supply Advisory Committee

Board Member Senft provided a brief update regarding the August 9 meeting. He stated it was agreed there would be a representative from the Polk County Water Cooperative on the Committee.

Executive Director's Report

48. Executive Director's Report

Mr. Brian Armstrong, Executive Director, informed the Board of an award the District received from the Florida Engineering Society recognizing a project that the District partnered with the Tampa Electric Company (TECO). This was a private/public partnership project that will offset 10 million gallons a day in the Southern Water Use Caution Area (SWUCA) and the Central Florida Water Initiative (CFWI) region and will work to improve water quality.

Chair's Report

49. Chair's Report

The September 13 Tentative Budget Hearing and the September 27 Board Meeting/Final Budget Hearing will both be in Tampa. The October 25 Board Meeting will be in Brooksville.

50. Other

51. Employee Milestones

This item was presented for the Board's information, and no action was required.

The meeting was adjourned at 10:37 a.m.

Chair

Attest:

Secretary