

APPROVED

MINUTES OF THE MEETING

Governing Board Southwest Florida Water Management District

Tarpon Springs, Florida

January 26, 2009

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met at 12:35 p.m. on January 26, 2009, in Tarpon Springs at the Brooker Creek Preserve Environmental Education Center. The following persons were present:

Board Members Present

Neil Combee, Chair
Todd Pressman, Vice Chair
Jennifer E. Closshey, Secretary
Ronald E. Oakley, Treasurer
Bryan Beswick, Member
Patricia M. Glass, Member
Hugh Gramling, Member
Albert G. Joerger, Member
Sallie Parks, Member
Maritza Rovira-Forino, Member
H. Paul Senft, Member
Douglas B. Tharp, Member
Judith C. Whitehead, Member

Staff Members Present

David L. Moore, Executive Director
William S. Bilenky, General Counsel
Lou Kavouras, Deputy Executive Director
Richard S. Owen, Deputy Executive Director
Eugene A. Schiller, Deputy Executive Director
Bruce C. Wirth, Deputy Executive Director

Recording Secretary

Annette D. Zielinski, Senior Admin. Assistant

Board Members Absent

None

A list of others present who signed the attendance roster is filed in the permanent files of the District. Approved minutes from previous meetings can be found on the District's Web site (www.WaterMatters.org).

Public Hearing

1. Call to Order

Chair Combee called the meeting to order and opened the public hearing. Ms. Closshey noted a quorum was present.

2. Pledge of Allegiance and Invocation

Chair Combee led the Pledge of Allegiance to the Flag of the United States of America. Mr. Bilenky offered the invocation. (CD 1/Track 01- 00:00/03:16)

Public Hearing

Chair Combee noted that the Governing Board's meeting was recorded for broadcast on government access channels. Public input was only taken during the meeting onsite.

Chair Combee 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 speaker's 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 one agenda item only during today's meeting. If additional time is needed or 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 at the end of the meeting during "Public Input." Chair Combee 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.

3. **Additions/Deletions to Agenda**

According to Section 120.525(2), Florida Statutes, additions or deletions to the published agenda will only be made for "good cause" as determined by the "person designated to preside." Mr. Moore noted the following items were deleted from the agenda after publication of the regular agenda. (CD 1/Track 02 - 00:00/01:07)

Consent Agenda

The following item was deleted from consideration:

20. WUP No. 20002688.003 - Hallmark Land Trust (**DENIAL**) – Hernando County

4. **Employee Recognition**

This item was deferred until February.

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

No person(s) came forward to speak at this time.

Consent Agenda

Item 20 was deleted from consideration. Mr. Joerger declared a voting conflict on Items 16 and 17, and abstained from voting on those two items.

Regulation Committee -- Environmental Resource Permits

6. ERP No. 43031433.002 - Three Sisters Springs Development – Citrus County
7. ERP No. 43030306.001 - Olde Myakka Rural Subdivision – Manatee County
8. ERP No. 49013559.024 - New River Lakes - Ph 1, Parcel F – Pasco County
9. ERP No. 49019100.003 - Orange State Residential – Pasco County
10. ERP No. 43028017.002 - Grand Cypress Apartments – Pasco County
11. ERP No. 43033570.000 - FDOT- US 41/SR 45 from Tower Road to Ridge Road Extension – Pasco County
12. ERP No. 43007026.020 - Metropointe Commerce Park – Pinellas County
13. ERP No. 43000662.006 - Watersong Phase One – Polk County
14. ERP No. 43022407.003 - Ritchie Bros. Auction Facility Expansion – Polk County
15. ERP No. 43014092.005 - N.P.C.I. Excavation (**DENIAL**) – Sarasota County
16. ERP No. 49034056.000 - The Bridges – Sarasota County
17. ERP No. 49034056.001 - The Bridges - Phase I – Sarasota County

Regulation Committee -- Water Use Permits

18. WUP No. 20004606.008 - Spanish Trail Land & Cattle Company, LLC/Emerald Island – Charlotte County/DeSoto County
19. WUP No. 20009398.010 - TRB Groves, LLC/Charlotte Grove – Charlotte County
- ~~20. WUP No. 20002688.003 - Hallmark Land Trust (**DENIAL**) – Hernando County~~
21. WUP No. 20005789.004 - Hernando County Water and Sewer District/East Hernando County Water System – Hernando County
22. WUP No. 20005160.004 - Sandlin Farms – Levy County
23. WUP No. 20001156.010 - On Top of the World Communities, Inc./On Top of the World – Marion County
24. WUP No. 20010631.003 - Wheelabrator Ridge Energy, Inc./Ridge Generating Station – Polk County

Regulation Committee – Other

25. **Approve Draft Florida Department of Transportation (FDOT) Mitigation Plan**
Staff recommended to approve the draft FDOT Mitigation Plan.
26. **Governing Board Concurrence with Executive Director's Issuance of Executive Director Order No. SWF 09-01, Regarding Use of the Peace River/Manasota Regional Water Supply Authority's Aquifer Storage and Recovery (ASR) Wellfields**
Staff recommended to concur with issuance of Executive Director Order No. SWF 09-01 for groundwater production from existing ASR wells.

27. **Governing Board Concurrence with Executive Director's Issuance of Second Modification to Executive Director Order No. SWF 08-024, Regarding Use by Tampa Bay Water of the Alafia River Project**

Staff recommended to concur with issuance of the Second Modification to Executive Director Order SWF 08-024 for diversion from the Alafia River to be used in Tampa Bay Water's regional surface water treatment plant.

28. **Approve Revisions to Proposed Amendments to Section 2.0 of the Environmental Resource Permit Basis of Review to Clarify Ownership and Control Requirements for Entities with the Power of Eminent Domain**

Staff recommended to approve revisions to the initiation of rulemaking to amend Rule 40D-4.091, F.A.C., and Section 2.0 of the ERP BOR to clarify that entities with the power of eminent domain can demonstrate sufficient ownership and control to undertake permitted activities.

Resource Management Committee

29. **Resolution Requesting Release of Encumbrance of Fiscal Year 2008 Budgeted Funds from the Water Management Lands Trust Fund for Preacquisition; Management, Maintenance and Capital Improvements; and Payments in Lieu of Taxes**

Staff recommended to adopt Resolution Requesting Release of Encumbrance of Fiscal Year 2008 Budgeted Funds from the Water Management Lands Trust Fund for Preacquisition; Management, Maintenance and Capital Improvements; and Payments in Lieu of Taxes.

30. **Appraisal and Purchase/Sale Agreement - Lake Hancock Project, SWF Parcel No. 20-503-170P**

Staff recommended to accept the appraisal, and approve the Purchase/Sale Agreement.

31. **Authorize Submission of the Preliminary Flood Insurance Rate Maps for the Croom and Little Withlacoochee River Watersheds to the Federal Emergency Management Agency**

Staff recommended to authorize staff to submit the preliminary FIRM panels for the Croom and Little Withlacoochee River watersheds in Hernando County to FEMA.

Finance & Administration Committee

32. **Board Travel**

No action was required at this time.

33. **Budget Transfer Report**

Staff recommended approval of the Budget Transfer Report covering all budget transfers for December 2008.

General Counsel's Report

34. **Approve Interagency Agreement between the South Florida Water Management District and the Southwest Florida Water Management District Designating the Regulatory Responsibilities for Interstate 75 Improvements – Charlotte County**

Staff recommended to approve the Interagency Agreement between the Southwest Florida Water Management District and the South Florida Water Management District for Designation of Regulatory Responsibility for the Project.

35. **Final Order of Dismissal with Prejudice – ERP No. 43023532.002 – Daniel W. Rothenberger v. FDOT and SWFWMD, DOAH Case No. 08-4274 – Pinellas County**

Staff recommended to approve the proposed final order of dismissal with prejudice that dismisses Mr. Rothenberger's Petition for Administrative Hearing with prejudice.

Executive Director's Report

36. **Approval of Minutes – December 16, 2008 Governing Board Meeting**

Staff recommended to approve the minutes as presented.

Following consideration, **Ms. Parks moved, seconded by Ms. Glass, to approve the Consent Agenda as amended. Motion carried unanimously.**

Following consideration, **Ms. Closshey moved, seconded by Mr. Oakley, to approve the Consent Agenda Items 16 and 17. Motion carried, and Mr. Joerger abstained from voting.**
(CD 1/Track 3 – 00:00/01:06)

Chair Combee relinquished the gavel to Resource Management Committee Chair Gramling.

Resource Management Committee

Discussion Items

37. **Consent Item(s) Moved for Discussion** – None

38. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said the District has had another month of below normal rainfall and as a result the hydrologic conditions have deteriorated. The status report included a comparison of rainfall, surface water, and groundwater levels for the current month to comparable data from the historical record. The Tampa Bay area and Peace River surface water resources are extremely limited and rapidly declining. Overall, hydrologic conditions are expected to worsen through late spring.

This item was presented for the Committee's information, and no action was required. (CD 1/Track 4 – 00:00/07:03)

39. **Polk County Comprehensive Water Supply Plan Update**

Mr. Brian Armstrong, Manager, Water Supply and Resource Development, said Mr. Gary Fries, P.E., Utilities Capital Projects Director, Polk County, was here today to provide the Board with an update on the Polk County Comprehensive Water Supply Plan and other significant water supply initiatives within the County.

Mr. Fries said the Polk County Comprehensive Water Supply Plan will identify viable potable water supply sources and conservation to meet the future potable and non-potable water demands of various public utility systems within Polk County. This process will include investigation of multiple water resources including conservation, reclaimed water, stormwater, surface water, seawater, brackish water, and fresh ground water. The Plan will address the technical, economic, environmental, jurisdictional, and regulatory factors associated with development of these potential new sources and creating multijurisdictional partnerships. The water supply planning effort will first include identification, quantification, and confirmation of the types and amounts of new water supply that can be developed; and then address aligning the sources with prospective water supply partners. Most importantly, the Plan will set forth immediate projects and strategies to provide new water supplies for targeted public utilities. The Plan will outline a set of real, attainable, affordable, and significant water supply projects, both local and regional in nature. Recommendations will include project definitions, specific actions, production rates, schedules, project costs, and unit water costs.

On December 17, 2008, the Polk County Board of County Commissioners concurred with a short and long list of ranked potential projects and directed the County's consultants to continue further investigation of those projects. A number of cities and municipalities have also presented the short list of potential projects to their respective city councils and have received concurrence. In addition, the County has entered into memorandums of understanding with the STOPR Group (St. Cloud, Tohopekaliga Water Authority, Orange County, Polk County, Reedy Creek Improvement District) and Tampa Bay Water to jointly investigate water supply projects that could potentially benefit multiple parties. The County's representative will provide the District's Governing Board with a project status presentation, including the approved project lists, outreach efforts with local governments, potential project partners from outside the County, and any other related water supply activities. This item was presented for the Committee's information, and no action was required. (CD 1/Track 5 – 00:00/46:46)

Submit & File Reports – None

Routine Reports

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

40. **Florida Forever Funding**
41. **Minimum Flows and Levels**
42. **Structure Operations**
43. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
44. **Significant Water Supply and Resource Development Projects**

Committee Chair Gramling relinquished the gavel to Regulation Committee Chair Parks.

Regulation Committee

Discussion Items

45. **Consent Item(s) Moved for Discussion** – None
46. **Approve for Adoption Proposed Amendments Delegating to Staff Authorization to Issue Certain Individual Permits and Deny Incomplete Permit Applications**

Mr. Owen said in September 2008, the Governing Board approved the initiation of rulemaking to amend permit application processing timeframes and establish an administrative procedure for staff denials of incomplete applications. At the same meeting, the Governing Board also authorized staff to combine this rulemaking with a rulemaking initiative approved in April 2008 to delegate to staff authorization to issue certain Individual permits. Since September 2008, staff has circulated the proposals among the District's various advisory groups for additional input. Although coordinated efforts have continued on amendatory language to accomplish both delegation proposals and the revised application processing timeframe proposal, the specific rule language for delegations to staff is now ready for Governing Board review and approval. The permit application processing timeframe amendments are still being reviewed and discussed with interested parties. Staff is seeking Governing Board authorization to proceed with rulemaking for the delegation provisions, so that these efficiency measures can be adopted and implemented without further delay. These amendments are intended to result in reduced costs to affected permit applicants and the District.

Staff recommended approval of the proposed amendments to Rules 40D-1.002, 40D-1.600, 40D-2.041, 40D-2.091, 40D-4.021, 40D-4.041, and 40D-40.302, F.A.C., and adoption of Rule 40D-1.6051, F.A.C., delegating to staff authorization to issue certain Individual Permits and deny incomplete permit applications.

Following consideration, **Ms. Closshey moved, seconded by Ms. Glass, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 6 – 00:00/02:57)

47. **Implementation of Water Shortage Order No. SWF 08-044, Modified Phase III Water Shortage Restrictions in the Tampa Bay Area**

Mr. Owen said staff has been focusing on two responsibilities: (1) implementing the modification to restrictions that the Governing Board approved on December 16, 2008 and (2) additional coordination with Tampa Bay Water and its Member Governments regarding enforcement and other local implementation requirements.

The recent restriction modification removed the District's standard Phase III Water Shortage Plan ban on turfgrass renovation from the Order and replaced it with a highly restrictive establishment irrigation schedule that applies to new lawns as well as renovations. Staff has expedited the newspaper advertisement that officially activated this Order modification; it published two days after the Board's decision. Staff also issued a news release, responded to media inquiries, updated website material, finalized and posted a new irrigation calendar for turfgrass professionals to use when educating their

customers, and sent modification notices to approximately 80 local officials and 1,700 water use permit holders.

a. **Review of Hillsborough County's Water Shortage Implementation Activities**

Hillsborough County is known for its long-term interest in water restriction enforcement and how that enforcement is integrated into its comprehensive water conservation efforts. As part of the County's water shortage implementation activities, select water conservation efforts that have been restarted or reinvigorated will be presented.

b. **Review of the City of Tampa's Water Shortage Implementation Activities**

The City of Tampa manages its own reservoir and other local sources in addition to receiving water from Tampa Bay Water. Current supply management strategies, aggressive water restriction enforcement, and other water shortage implementation activities will be presented.

Mr. Bart Weiss, Strategic Water Management, Hillsborough County, discussed the various water conservation programs it employs in conjunction with the City of Tampa. He said per capita water use, for customers in the Hillsborough County and City of Tampa, is down over 50 gallons per person per day since the year 2000. Water Conservation Programs include: oversight activities, educational measures, operational measures, financial and incentive measures, regulatory measures, and research measures. Mr. Weiss said there are increased conservation efforts for 2009, some of which include: increased enforcement, mobile signs, and home/commercial irrigation system evaluation.

Mr. Weiss said the historical commitment to water conservation has led to some great rewards, for example, 115,000 toilets have been replaced at 85,000 locations. More than 150,000 retrofit kits have been supplied. The City and County have supplied over 800,000 students and teachers with water education programs.

Board members thanked Mr. Weiss for the informative presentation and congratulated Hillsborough County and the City of Tampa on its successful progression of water conservation.

Mr. Owen said staff continues to work closely with Tampa Bay Water and its member governments on the implementation of the water shortage order.

This item was provided for the Committee's information, and no action was required. (CD 1/Track 7 – 00:00/28:51)

48. **Defining Drought and Water Shortage Actions**

Mr. Michael Molligan, Director, Communications Department, said the Governing Board members have expressed a need for the District to better communicate with the public regarding how the District defines and responds to drought and other water shortage events. There are many accepted definitions for drought, but all involve the basic concept that drought is a period of unusually dry weather that persists long enough to cause serious problems. Such problems are primarily associated with impacts to human activities, including: public health and safety practices, power generation, agriculture, and recreation.

Each water management district is required, by state statutes, to have a Water Shortage Plan that provides the framework for how it monitors and responds to drought, lingering impacts from drought and other water shortage events. The districts' water shortage plans are further governed by Chapter 62-40, Florida Administrative Code (F.A.C.), the Water Resource Implementation rule, promulgated by the Department of Environmental Protection. Mr. Molligan demonstrated how staff uses a "Water Shortage Scorecard" to succinctly document the analysis of key indicators and additional information that is performed on a regular basis. Once the need for action has been determined and a

proposed course of action has been selected, the District's regulatory response takes the form of declaring either a "Water Shortage Order" or an "Executive Director Order."

Ms. Closshey began a discussion among the Board that suggested staff work on ideas to visually depict water shortage and connect with the public's emotions to convey the most powerful message. She described a campaign used in the Atlanta, Georgia area showing a deer and her fawn at a lake. The lake's level changed along with the intensity of the drought and sent a clear message of how important it was to conserve water. Mr. Molligan said the Water Shortage Scorecard was strictly an in-house tool and that staff was working on campaigns specifically designed for the public to air this spring. Other Board members echoed Ms. Closshey's observations that the messages need to be more heartfelt. Chair Combee suggested a letter be written sending a clear message regarding the drought and a call to conserve now be sent to all 98 local governments asking officials to share the message at their next public meeting. Mr. Moore said staff could attend as many of those public meetings as possible to be present and reinforce the message. Mr. Closshey also thought it was important to send a letter to TBW thanking them for the meeting this morning and acknowledging that they have serious decisions to make.

Mr. Pressman said the Board meetings that are televised to local cable companies can only be viewed on channels that require digital cable and additional subscriber fees. This defeats the purpose somewhat for the general public. Mr. Pressman suggested a large e-mail list be compiled and used as another form of communication to local governments. Mr. Combee suggested ordering and continuing to use yards signs advertising the drought.

This item was provided for the Committee's information, and no action was required. (CD 1/Track 7 – 28:51/75:09)

Submit & File Reports – None

Routine Reports

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

49. **Southern Water Use Caution Area Quantities**
50. **Water Production Summary**
51. **Public Supply Benchmarks**
52. **Overpumpage Report**
53. **Resource Regulation Significant Initiatives**

Regulation Committee Chair Parks relinquished the gavel to Outreach and Planning Committee Chair Maritza Rovira-Forino.

Outreach and Planning Committee

Discussion Items

54. **Legislative Update**

Mr. David Rathke, Director, Community and Legislative Affairs Department, said the following challenges: economics, politics, and environmental will drive the session this year. Partnering with local governments will be vital for progress. The Special Session is making cuts to the State Budget in the following areas: Florida Forever Trust Fund, Water Management Lands Trust Fund, and Water Protection and Sustainability Trust Fund.

The upcoming Legislative Session is scheduled to begin March 3. This will include the additional budget reductions that are anticipated along with discussion about potential new revenue sources. Substantive legislation that may be proposed this year includes springs protection and streamlining of the permitting processes along with the ongoing sunset

review of the water management districts and other state agencies including the Department of Community Affairs.

Staff will provide updates throughout the Session on the Federal Legislative issues and how the District is putting forth efforts to support economic development for water supply and related infrastructure at the federal level.

This item was provided for the Committee's information, and no action was required.
(CD 1/Track 8 – 00:00/09:39)

Submit & File Report

The following item was submitted for the Committee's information, and no action was required.

55. **2009 Consolidated Annual Report Status**

Routine Reports

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

56. **Comprehensive Plan Amendment and Related Reviews**
57. **Development of Regional Impact Activities**
58. **Speakers Bureau**
59. **Significant Activities**

Outreach and Planning Committee Chair Rovira-Forino relinquished the gavel to Finance and Administration Committee Chair Oakley.

Finance and Administration Committee

Discussion Items

60. **Consent Item(s) Moved for Discussion** – None

Submit & File Reports

The following items were submitted for the Committee's information, and no action was required.

61. **Fiscal Year 2010 Budget Calendar**
62. **Fiscal Year 2009 First Quarter Financial Report**

Mr. Schiller said the District is well positioned at the end of the First Quarter for Fiscal Year 2009. He said staff will continue to closely monitor revenues and will report back to the Board in February regarding actions the Governor takes and how that will impact the District.

Routine Reports

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

63. **Treasurer's Report, Payment Register, and Contingency Reserves**
64. **Management Services Significant Activities**

Finance and Administration Chair Oakley relinquished the gavel to Chair Combee. (CD 1/Track 9 – 00:00/02:52)

General Counsel's Report

Discussion Items

65. **Consent Item(s) Moved for Discussion** – None

Submit & File Reports – None

Routine Reports

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

66. **Litigation Report**

General Counsel Bilenky said regarding Dr. Blanco's case, the District has received an order from the hearing officer assessing costs and attorney fees against Dr. Blanco. The permittee is seeking over \$200,000 in attorney fees. The District is seeking a little over \$10,000 for reimbursement of costs associated with the case only and the staff attorney fees will be absorbed internally.

67. **Rulemaking Update**

Executive Director's Report

68. **Executive Director's Report**

Mr. Moore said Mr. Jerry Seeber, Tampa Bay Water, said they may well cross over the 90 mgd pumping threshold. He hopes that the emergency orders and continued conservation efforts will hold the pumping as close to the 90 mgd threshold as possible.

Mr. Moore said he and Mr. Gramling met with officials from the City of Temple Terrace to discuss the Middle Hillsborough River issue of setting a minimum flow and level on a water body that has a dam. This item will be on the agenda for the February meeting.

On January 13, the five Executive Directors of the Water Management Districts were asked to go in front of the Senate Committee for Environmental Protection and Conservation and provide a status report of our major initiatives and how they relate to our budget. Mr. Moore said he talked about our water supply and how the District has been operating with zero debt. He said the Senate Committee was very appreciative of the updates.

The Environmental Protection Agency may decide to set numerical standards on nutrients such as nitrogen and phosphorus in Florida's lakes, streams, and estuaries. This type of numeric standardization would impact the District in various programmatic and operational procedures.

Committee/Liaison Reports

69. **Industrial Advisory Committee**

Ms. Closshey said the Industrial Advisory Committee met on January 6, 2009. Presentations were heard on the following topics: the drought, 20-Year Water Use Permits, Minimum Flows and Levels, Advisory Committee Policy Review, State of the Water Resources Workshop Update, and a Legislative Preview. Guest Speaker, Susan Hochuli, Peace/River Manasota Regional Water Supply Authority, provided an update on their projects. The next meeting is scheduled for April 14, 2009 at the District's Tampa Service Office.

70. **Public Supply Advisory Committee**

Mr. Pressman said the Public Supply Advisory Committee met on January 6, 2009. The Committee heard presentations on the Drought, Enhanced Conservation Rule Update and Reporting Features, 20-Year Water Use Permit Rulemaking Update, Advisory Committee Policy Review, State of the Water Resources Workshop Update, and the Legislative Preview. The next meeting is scheduled for April 14, 2009 at the District's Tampa Service Office.

71. **Well Drillers Advisory Committee**

Mr. Oakley said the Well Drillers Advisory Committee met on January 14, 2009. The Committee heard presentations on the following topics: Water Management Information System Water Use/Well Construction, Statewide Permit and Completion Report Status, Disciplinary Guidelines and Procedures Manual Update, and the Proposed Addition of Helena Chemical Company and Alaric Area Groundwater Plume U.S. Environmental Protection Agency (EPA) Superfund Sites into Memorandum of Understanding (MOU) Between SWFWMD and EPA. The next meeting will be April 22, 2009, at the Tampa Service Office. (CD 1/Track 10 – 00:00/19:42)

Chairman's Report

72. **Chairman's Report**

Chair Combee said he would like Mr. Senft to represent the Board at future meetings concerning the Central Florida Coordination Area.

Board members thanked staff members from the Brooker Creek Facility and the District for their hard work in setting up for today's meeting.

There being no further business to come before the Board, **Ms. Closshey moved, seconded by Mr. Oakley, to adjourn the meeting. Motion carried unanimously.**

The meeting was adjourned at 3:30 p.m.

Attest:

Chairman