

MINUTES OF THE MEETING

Governing Board Southwest Florida Water Management District

Thonotosassa, Florida

February 26, 2008

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met at 9:00 a.m. on February 26, 2008, at the TECO Center at Nature's Classroom in Thonotosassa. The following persons were present:

Board Members Present

Judith C. Whitehead, Chair
Neil Combee, Vice Chair
Todd Pressman, Secretary
Jennifer E. Closshey, Treasurer
Thomas G. Dabney, Member
Patricia M. Glass, Member
Albert G. Joerger, Member
Ronald E. Oakley, Member
Sallie Parks, Member
Maritza Rovira-Forino, Member
Patsy C. Symons, Member
Heidi B. McCree, 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 Whitehead called the meeting to order and opened the public hearing. Ms. Closshey noted a quorum was present.

2. Pledge of Allegiance and Invocation

Chair Whitehead led the Pledge of Allegiance to the Flag of the United States of America. Mr. Bilenky offered the invocation. (CD 1/Track 01 – 00:00/01:12)

Public Hearing

Chair Whitehead noted that this Governing Board meeting was not being broadcast. Public input was only taken during the meeting onsite. The Governing Board's meeting was recorded for broadcast on government access channels.

Chair Whitehead 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 Whitehead 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. She 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 items added and deleted from the agenda were made after publication of the regular agenda. (CD 1/Track 02 – 00:00/02:19)

A closed attorney-client session was not held following the meeting.

General Counsel's Report

The following item was added for consideration:

- Consideration of Weeki Wachee Joint Stipulation - Southwest Florida Water Management District v. City of Weeki Wachee, et al. Circuit Court, Fifth Judicial Circuit, Case No. H-27-CA-2004-366RT

4. **Oath of Office for Newly Appointed and/or Reappointed Board Member(s)**

Ms. Kavouras administered the Oath of Office to newly appointed Governing Board member Mr. Albert G. Joerger of Sarasota, president of the Sarasota Conservation Foundation. Mr. Joerger has been appointed to fill a newly created Governing Board seat for a term beginning February 13, 2008 and ending March 1, 2011. On behalf of the Governing Board and District staff, Chair Whitehead welcomed Mr. Joerger to the Board. (CD 1/Track 02 – 02:19/03:13)

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

No one came forward at this time to address the Governing Board. (CD 1/Track 03 – 00:00/00:17)

Consent Agenda

Item 40 was deferred to the March meeting of the Board.

Regulation Committee -- Environmental Resource Permits

6. ERP No. 44007521.016 - Country Club of Sebring Lot Nos. 163 and 164 (***DENIAL***) – Highlands County
7. ERP No. 46033154.000 - Cortona Subdivision (***DENIAL***) – Hillsborough County
8. ERP No. 43028696.029 - Stone Creek by Del Webb – Marion County
9. ERP No. 43018792.004 - Pasco County - Ridge Road Extension - Phase 1 and 2 – Pasco County
10. ERP No. 43033020.000 - FDOT - 1-75 (SR 93); from South of CR 54 to North of CR 54 – Pasco County
11. ERP No. 43008898.009 - FDOT - State Road 686 from East of 40th Street North to West of 28th Street North, Stage 2 Segment 1 – Pinellas County
12. ERP No. 43030797.001 - Pinellas County - Keystone Road (County Road 582) U.S. 19 to East Lake Road – Pinellas County
13. ERP No. 43033167.000 - Highway 60 West Development – Polk County
14. ERP No. 43033368.000 - FDOT - U.S. 27 (SR 25) Widening from CR 546 to SR 544 – Polk County

Regulation Committee -- Water Use Permits

15. WUP No. 20002983.009 - Hernando County Utilities Department/West Hernando County Service Area – Hernando County
16. WUP No. 20004219.010 - S.Y. Hartt & Sons, Inc. – Highlands County
17. WUP No. 20004049.015 - Sorrells Grove Care, Inc./Rutland Grove – Manatee County
18. WUP No. 20006151.008 - Marion County Utilities - State Route 200 Corridor Southwest, Dunnellon Airport and JB Ranch – Marion County
19. WUP No. 20000143.015 - Mountain Lake Corporation – Polk County
20. WUP No. 20007119.009 - City of Auburndale – Polk County

Regulation Committee -- Other

21. **Electrical Transmission Line Site Certification – SWFWMD Agency Report on Tampa Electric Company/Progress Energy Florida, Inc. Lake Agnes-Gifford 230 kV Transmission Line – Polk County**
Staff recommended to approve the Agency Report and proposed conditions of certification to be submitted to the Department of Environmental Protection for the Tampa Electric Company/Progress Energy Florida, Inc. Lake Agnes-Gifford 230 kV Transmission Line.
22. **Approve Initiation of Rulemaking to District Permit Application and Agency Action Noticing Requirements**
Staff recommended to authorize the initiation of rulemaking to amend District permit application and agency action noticing requirements.
23. **Approve Initiation of Rulemaking to Revise WUP Application Information Requirements and Forms to Implement the Water Management Information System**
Staff recommended to authorize the initiation of rulemaking to revise WUP application information requirements and application forms.
24. **Approve Initiation of Rulemaking to Amend 40D-2.401 and 40D-2.381, F.A.C., and Water Use Permit Information Manual Part B, "Basis of Review" Section 6.1, to Revise Withdrawal Identification Tag Requirements**
Staff recommended to authorize the initiation of rulemaking to revise WUP application information requirements and application forms.

Resource Management Committee

25. **Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium**
Staff recommended to (1) approve the attached "Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium" and the "Tampa Bay Nitrogen Management Strategy, 2007 Update to the Reasonable Assurance Document" and (2) authorize the Governing Board Chair execute the Declaration of Cooperation.
26. **Pilot-Testing of Biological Water Treatment Systems**
Staff recommended to (1) authorize staff to negotiate an agreement with Hydromentia, Inc. for an enhanced study of the Taylor Creek facility in the South Florida Water Management District for an amount not to exceed \$400,000; and authorize the Executive Director to sign the agreement; (2) authorize District staff to negotiate an amendment to the existing agreement with CH2M Hill, Inc., for an amount not to exceed \$300,000 to provide an independent evaluation of the performance of Hydromentia's Taylor Creek facility; and (3) authorize the Executive Director to execute the amendment.
27. **Perpetual Easement over SWF Parcel No. 19-020-027 and Delegation of Authority to Accept No-Cost Easements in Support of the District's Monitor Well Site Acquisition Program**
Staff recommended to:
 - (1) Authorize the Land Resources Director to accept an easement over SWF Parcel No. 19-020-027, at no cost to the District; and
 - (2) Authorize the Land Resources Director to accept no-cost easements in the future in support of the District's monitor well site acquisition program.
28. **Pasco County Design and Construction of Wet-Weather Reclaimed Water Reservoir – Land O' Lakes**
Staff recommended to (1) approve the transfer of \$1,000,000 from the Governing Board's Water Supply and Resource Development reserves to the Pasco County Design and Construction of Wet-Weather Reclaimed Water Reservoir – Land O'Lakes Project; (2) authorize staff to prepare an amendment increasing the project's funding by \$2 million from \$2.18 million to \$4.18 million; and (3) authorize the Executive Director to execute the amendment.
29. **River Garden Shoreline Restoration**
Staff recommended to (1) authorize the transfer of \$30,000 from W312, Tampa Bay Habitat Restoration, to River Garden Shoreline Restoration Project (W381); and (2) authorize the Executive Director to approve and execute an amendment to the agreement.
30. **Pinellas County Ultra Low Flow Toilet Rebate Program**
Staff recommended to approve the agreement with Pinellas County to implement Phase 6

of the Pinellas County Ultra Low Flow Toilet Program for \$1,096,000, with the Basin's share not to exceed \$548,000; and authorize the Executive Director to sign the Agreement.

31. **Facilitating Agricultural Resource Management Systems (FARMS) – TRB Groves, LLC – Phase III – Charlotte County**

Staff recommended to:

- (1) Approve the TRB Groves, LLC - Phase III FARMS Project for a not-to-exceed project reimbursement of \$750,000 with \$187,500 provided by the Peace River Basin, \$187,500 provided by the Governing Board, \$128,316 provided from 2007 State Appropriations to the Peace River Basin, and \$246,684 provided from 2008 State Appropriations to the Governing Board;
- (2) Authorize the transfer of \$187,500 from fund 020 H017 Peace River Basin FARMS funds, \$187,500 from fund 010 H017 Governing Board FARMS funds, \$128,316 from the 2007 State Appropriations allocated to fund 020 H017 FARMS funds, and \$246,684 from the 2008 State Appropriations allocated to fund 010 H017 FARMS funds, to 010 H501, TRB Groves project fund; and
- (3) Authorize the Executive Director to execute the agreement.

32. **Facilitating Agricultural Resource Management Systems (FARMS) – S.Y. Hartt & Son, Inc. – Highlands County**

Staff recommended to:

- (1) Approve the S. Y. Hartt & Son, Inc. FARMS Project for a not-to-exceed project reimbursement of \$70,000, with \$17,500 provided by the Peace River Basin Board, \$17,500 provided by the Governing Board, and \$35,000 provided from State Appropriations;
- (2) Authorize the transfer of \$17,500 from fund 020 H017 Peace River Basin Board FARMS funds, \$17,500 from fund 010 H017 Governing Board FARMS funds, and \$35,000 from the 2007 State Appropriations allocated to fund 020 H017 Peace River Basin Board State Appropriations, to H549 S. Y. Hartt & Son, Inc. FARMS project fund; and
- (3) Authorize the Executive Director to execute the agreement.

33. **Continue Public Hearing Requested by Tampa Bay Water on Proposed Minimum Flows for the Fresh Water Segment of the Alafia River**

Staff recommended to continue the public hearing requested by Tampa Bay Water on the proposed minimum flows for the freshwater segment of the Alafia River to the March 2008 Board meeting.

Finance & Administration Committee

34. **Board Travel**

No action required at this time.

35. **Budget Transfer Report**

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

36. **Emergency Response Trailer with Diversion Dams**

Staff recommended to authorize the transfer of \$81,500 from the General Fund property insurance budget line to the capital equipment budget in the General Services Department for the purchase of a standard Emergency Response Trailer with diversion dams from the U. S. Flood Control to assist in protecting the TDC from flood exposure.

Outreach & Planning Committee

37. **Approve 2008 Consolidated Annual Report**

Staff recommended approval of the District's 2008 Consolidated Annual Report.

General Counsel's Report

38. **Consent Order – Surface Water Activity – Drummond Company, Inc. – Polk County**

Staff recommended to approve the proposed Consent Order and authorize the initiation of litigation against Drummond Company, Inc. and any other appropriate parties to obtain compliance with the Consent Order.

39. **Initiation of Litigation – WUP Nos. 20001782.003/004 – Spencer Farms, Inc. (Stephens Road Farm) - Hillsborough County**

Staff recommended to authorize initiation of litigation against Spencer Farms, Inc. and any other appropriate parties to obtain compliance, a monetary penalty, and recovery of District enforcement costs, court costs, and attorney's fees.

Executive Director's Report

40. **Approve January 29, 2008 Governing Board Meeting Minutes**
This item was deferred to the March meeting of the Board.

Following consideration, **Mr. Dabney moved, seconded by Ms. McCree, to defer consideration of Item 40 until the March meeting to provide staff time to complete modifications as requested by Ms. Rovira-Forino. Motion carried unanimously.**

Following consideration, **Ms. McCree moved, seconded by Ms. Closshey, to approve the Consent Agenda as modified. Motion carried unanimously.** (CD 1/Track 04 – 00:00/03:43)

Chair Whitehead relinquished the gavel to Regulation Committee Chair Rovira-Forino.

Regulation Committee

Discussion Items

41. **Consent Item(s) Moved for Discussion** – None
42. **Water Shortage Actions**

- a. **Governing Board's Concurrence with Executive Director's Issuance of Executive Director Order No. SWF 08-002 (Peace River/Manasota Regional Water Supply Authority's Englewood-Charlotte County Interconnect)**

Mr. Granville Kinsman, Hydrologic Data Manager, said the District has received improved rainfall in the central region; however, the Peace River Basin remains heavily impacted. In January 2008, most regions in the District recorded above average rainfall or normal rainfall with the exception of the Peace River Basin. Rainfall for the month of February 2008 has been good; Citrus County received 6 inches of rainfall thus far and more is expected. Overall there is about a 10-inch rainfall deficit Districtwide. Mr. Kinsman utilized hydrographs to depict lake levels around the region. In reviewing the U.S. Drought monitor, it was noted some improvement has been made in the northern portion of the District as a result of the recent rainfall. Forecasters are predicting below normal rainfall for the next three months. (CD 1/Track 05 – 00:00/03:36/Track 06 – 00:00 – 07:26)

Mr. Moore said as soon as staff learned of the drought predictions, the District took aggressive action, and the unexpected rainfall in January and February has helped; however, the Peace River Basin remains very dry especially in the south and supplies need to be stretched as far as they can.

Ms. Symons said the DeSoto Board of County Commissioners was meeting to decide whether or not to pass an ordinance to help enforce the watering restrictions. Ms. Symons will be attending this meeting to encourage the Commissioners to pass the ordinance. (CD 1/Track 07 – 00:00/02:21)

Mr. Ross Morton, Director, Sarasota Regulation Department, said at its July 2007 meeting, the Governing Board directed staff to evaluate any water supply options that might contribute to managing the current drought situation. In keeping with this direction, and as a continuation of existing dialog on water supply and water quality issues in its service area, District staff entered into discussions with the Peace River/Manasota Regional Water Supply Authority. These discussions already resulted in an emergency authorization to temporarily increase withdrawals from the Peace River (Executive Director Order No. SWF 07-045, issued August 13, 2007 and still in

effect, as modified). The District, the Authority and local utilities have continued to pursue additional opportunities.

The Authority relies on diversions from the Peace River to meet the water needs of over 250,000 residents in the City of North Port and the counties of Charlotte, DeSoto and Sarasota. Drought conditions have caused a public water supply shortage within the Authority's regional water supply system, including critically low water levels in its reservoir and two Aquifer Storage and Recovery (ASR) wellfields. As of February 3, 2008, the Authority only had a total of 575 million gallons of water in storage.

District staff has been coordinating with the Authority, Englewood Water District, and Charlotte County regarding an emergency authorization to facilitate the temporary transfer of water from the Englewood Water District to Charlotte County Utilities, an action which would offset demand that would otherwise need to be met by withdrawals from the Authority's reservoir and ASR wellfields. In anticipation of the Authority's formal request for such an emergency authorization, District staff drafted Executive Director Order No. SWF 08-002.

On February 6, 2008, the Authority requested and received Executive Director Order No. SWF 08-002. This emergency authorization was issued using the water shortage emergency powers of the District's Executive Director pursuant to Chapter 373, F.S., District Rule Chapter 40D-21, F.A.C. A copy of the emergency authorization was included as an exhibit in the Governing Board information notebook.

Executive Director Order No. SWF 08-002 temporarily modifies Englewood's Water Use Permit, increasing the peak month withdrawal to 7.20 million gallons per day (mgd) in order to allow delivery of approximately 1.50 mgd to Charlotte County Utilities. This compares to a peak month withdrawal quantity of 6.59 mgd otherwise authorized by the permit. The Authority is required to reduce the amount they deliver to Charlotte County Utilities by the amount Englewood supplies. The emergency authorization specifies that use of Englewood's Intermediate Aquifer wells shall be maximized prior to pumping any freshwater wells. It also specifies that use of freshwater wells located in Wellfields Nos. 1, 2, and 5 shall be maximized (if available) prior to pumping from the wells located in Wellfield No. 3. This emergency authorization is designed to expire on May 1, 2008 unless rescinded or extended by the Governing Board or Executive Director. Management of the freshwater wellfields and duration of the emergency authorization are designed to prevent adverse impacts to wetlands.

Staff recommended concurrence with the issuance of Executive Director Order No. SWF 08-002 for use of the Englewood – Charlotte County Interconnect.

Following consideration, **Ms. McCree moved, seconded by Ms. Whitehead, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 08 – 00:00/05:37)

b. **Update on Interagency Agreement Regarding Uniform Year-Round Water Conservation and Water Shortage Measures for Marion County**

Mr. Owen said Western Marion County is within the District's boundaries, but eastern Marion County is in the St. Johns River Water Management District. The two Districts have collaborated on an effort to facilitate uniform lawn and landscape irrigation measures, both year-round water conservation measures and as-needed water shortage responses, for all of unincorporated Marion County. This effort is viewed as a pilot, with the outcome to be used to address similar situations throughout the state and with local Interagency Agreements similar to the one the District is pursuing with the City of Ocala.

The Governing Board authorized the Executive Director to finalize and execute the resulting Interagency Agreement on January 28, 2008. As part of the same motion, the Governing Board also authorized a modification to Water Shortage Order No. SWF 07-02 in order to extend current water shortage measures to eastern Marion County in accordance with terms of the Interagency Agreement. The Interagency Agreement has been finalized and executed by the Executive Director. As of February 5, 2008, the document was in the process of being routed to St. Johns and Marion County to acquire the other required signatures.

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

Committee Chair Rovira-Forino commended this initiative and the cooperative spirit of all of the parties. (CD 1/Track 09 – 00:00/03:54)

43. **Discussion of 20-Year Water Use Permit Duration and Compliance Reports**

Mr. Ken Weber, Water Use Program Director, Resource Performance Management Department, said the District permitting rules currently allow permit durations of six years for new or significantly modified Individual permits, ten years for new General permits or Individual renewals, and 20 years for alternative water sources. However, there is also a provision allowing shorter or longer duration based on individual circumstances. Florida Statutes allow for 20-year permits where the applicant provides "sufficient data to provide reasonable assurance that Conditions for Issuance will be met for 20 years." The implication of this language is that a 20-year permit is appropriate where water resources are not stressed and water demands are relatively stable. Therefore, the District has generally not issued 20 year permits for traditional sources in water resource areas subject to a recovery strategy such as the SWUCA and the Northern Tampa Bay WUCA.

The District is currently in rulemaking to allow 20-year permits for projects developing significant alternative water supplies. Additionally, staff is vetting the value of proposing permits of greater than 10-year duration in other circumstances as well, such as for public supply permittees that need to comply with Department of Community Affairs' requirements to demonstrate future water supply. Staff is also considering proposing that agricultural projects that develop alternative water supplies and reduce runoff-related surface water degradation be considered for a 20-year duration permit. The District has a public workshop scheduled for March 14 in the Tampa Service Office to gain further insight.

Mr. Moore said this is a major policy for the Board to consider. He said there is a tremendous amount of competition for 20-year permits. One of the major challenges is to be able to predict the population over the next 20 years. It is important to provide incentives for the development and use of alternative water supplies.

Mr. Combee suggested the use of conditional permits and shorter initial durations as a way to control use over a long-term permit. Mr. Weber said the District has plans to use the five-year compliance reports as certainty. Overall issuance of long-term permits presents a substantial water management challenge. The key to issuing permits that will span two decades is conditioning them to require sufficient monitoring and reporting, with an allowance to adjust the permits over time as circumstances warrant. The detail of these reports will vary by permit size, location, and use type, and will consider as well any specific impact-related items such as wetland assessments. An item for consideration will be whether the Board desires to approve these reports, or whether some or all would be delegated to staff for approval. The Statute states that the District may modify the permit based on the compliance review; giving less certainty to the permittee.

Ms. Closshey suggested using technology and forward thinking to try to come up with a permit structure that would allow monitoring and adjusting in an ongoing fashion rather than only at marked intervals or milestones. Committee Chair Rovira-Forino encouraged

her fellow Board members to give this item significant thought due to the impact that large developments will have in the future.

Mr. Weber said the District is considering issuing 20-year permits if a project met the following criteria: Development of alternative sources to offset ground water; Remedied surface water quality issues and reduced ground water withdrawals (FARMS); and Substantially increased long-term public supply water conservation. The District will be discussing key issues with advisory committees and report back to the Board. Ms. Glass encouraged staff to continue to work with the public to help them understand the District's concerns with the current drought, permitting processes, regional water supplies and the programs that the District has implemented to address those issues. Mr. Owen said staff intends to include all of the stakeholders that would be involved in permit duration and compliance reporting rule changes. He said the District has ERP advisory groups and Mr. Dabney suggested that staff develop similar groups for the Water Use Permitting program; the first meeting of this type will occur in March 2008.

This item was presented for the Committee's information, and no action was required. (CD 1/Track 10 – 00:00/48:47)

Submit & File Reports – None

Routine Reports

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

44. **Demand Management**
45. **Overpumpage Report**
46. **Southern Water Use Caution Area Quantities**
47. **Water Production Supply Summary**
48. **Public Supply Benchmarks**
49. **Resource Regulation Significant Initiatives Report**

Regulation Committee Chair Rovira-Forino commended staff regarding a complimentary letter the Governing Board received from Mike Wells, Pasco County Property Appraiser, expressing appreciation for the District's past and present support of the orthophoto and datum densification projects.

Regulation Committee Chair Rovira-Forino relinquished the gavel to Resource Management Committee Chair Pressman.

Resource Management Committee

Discussion Items

50. **Consent Item(s) Moved for Discussion**

Mr. Wirth said he wanted to point out a couple of success stories that were approved on today's Consent Agenda. The first one regarding the Declaration of Cooperation of the Tampa Bay Nitrogen Management Consortium and the Tampa Bay Nitrogen Management Strategy, 2007 Update to the Reasonable Assurance Document. Improved water quality and marsh grasses are testimony to this successful program. Mr. Wirth thanked Ms. McCree for her contributions to this cause and her overall, continuous support of Tampa Bay.

The second project Mr. Wirth made note of was Pilot-Testing of Biological Water Treatment Systems. He said staff is negotiating an amendment to the existing agreement with CH2M Hill, Inc., to provide an independent evaluation of the performance of Hydromentia's Taylor Creek. He said staff is anticipating positive reports from this testing.

Mr. Brian Armstrong, Manager, Water Supply and Resource Development Section, Resource Projects Department said Tampa Bay Water's desalination plant was on a

progressive schedule to meet its 25 mgd for four months requirement. Achieving this goal would allow for Tampa Bay Water to receive 25 percent of the payment currently being held by the District. Tampa Bay Water wanted to commence operating at 25 mgd in the beginning of January, however as a result of difficulties resulting from condenser unit shut downs at the TECO power plant, they may have to begin in April when the ambient water temperature will be more suitable for production at 25 mgd. (CD 1/Track 11 – 00:00/11:25)

51. **Approve Remaining Reclaimed Water Task Force Recommendations (2 and 10)**

Mr. Wirth said this was an action item requesting the Governing Board approve the remaining Reclaimed Water Task Force Recommendations 2 (provide cooperative funding for reclaimed water distribution systems in new residential developments) and 10 (guidelines for determination of "Economically Feasible" Requirement for Reclaimed Water in Water Use Permitting.) The Governing Board approved 14 of the 16 Task Force recommendations at its October 2007 meeting, and directed staff to finalize a recommendation on each of the remaining two, and then recommend to the Board the appropriate action.

Recommendation 2 is for the District to offer, through its Cooperative Funding Initiative, funding directly to developers for reclaimed water distribution systems in new residential developments. As described in the materials provided to the Governing Board for its October 2007 meeting, staff was concerned about the impacts to the organization (staff and financial resources), and the ability to ensure financial accountability over the term of the project (typically 20 years for reuse projects).

Reclaimed water projects are expected to be used to capacity at a specified minimum efficiency for at least 20 years per cooperative funding guidelines. The fact that this program seeks partnerships with private developers required staff to develop controls that will remain in effect well after the developer no longer has an interest or control in the development, which is typically upon completion and sale of the homes or lots. Staff considered several options that would be in place over a 20-year period. These included having the developer secure a performance bond to be held by the District, having the developer hire an independent construction inspector, and having the developer transfer all rights and responsibilities to the homeowners' association upon completion of the project. Staff felt those options were burdensome to the developer and homeowners, and would make participation in the program undesirable. For that reason, staff identified controls that would ensure the District's financial commitment was fully utilized. Those controls include:

- The developer would provide assurance at the time the project is proposed that the reclaimed water transmission lines and associated infrastructure necessary to supply the development for the 20-year term are in place, or construction is planned and budgeted for. That assurance would require a written agreement with the local government or private utility providing the following:
 - a commitment to supply reclaimed water to the development for the intended purpose(s) for a period of 20 years
 - a commitment to provide the District with an annual reuse report detailing flows and offsets
 - a requirement that the utility will have access and control of the reclaimed water master meter
 - an agreement giving the utility ownership, control and responsibility for maintenance of the distribution system upon completion of the project by the developer.

As is consistent with funding practices, when public funds are used in a private venture, the cooperative agreement with the developer would include a provision that prevents the developer from making a profit from the improvements funded by the District. The District will reimburse the developer after the system is on-line and receiving flows, and at least 50 percent of the planned customers are hooked-up and using reclaimed water.

Reimbursement after commitment by 50 percent of the users is consistent with the current reclaimed water distribution funding practices. The District could consider other arrangements for long term operation and maintenance of the system, but recent events associated with the District entering into cooperative agreements with private developers implementing distribution lines show that market forces and business factors can negate expected benefits, and therefore, staff believes these conditions are reasonable.

Resource Committee Chair Pressman heard public comment at this time.

Mr. Hugh Gramling, representing the Agricultural Advisory Committee, said the Committee urges the Governing Board to approve both of the staff recommendations for this item.

Recommendation 10 provides guidance in determining the economic feasibility of requiring the use of reclaimed water in the process of obtaining a Water Use Permit (WUP). As described in the October 2007 Governing Board materials, staff had a concern with a portion of the Task Force recommendation because it applied only to new uses and not renewals, and that Florida Department of Environmental Protection (FDEP) rule 62-40.416, Florida Administrative Code, requires an evaluation of the costs and benefits of reclaimed water in determining economic feasibility. Staff wanted to review whether the recommendation was consistent with Chapter 373, Florida Statutes. Staff also wanted an opportunity to discuss this issue with the other water management districts (WMDs) and the FDEP. The current WUP criteria indicate that an applicant can be required to use reclaimed water when it is determined that it is economically feasible to do so. The rule, however, does not provide a specific threshold as to when it is feasible. The Task Force recommendation does, by indicating that if the cost to the user is more than the existing cost of water, then using reclaimed water would not be considered feasible.

As a result, Recommendation 10 is recommended for implementation with modifications reflecting that all permittees, new and existing, are subject to the same criteria, and that the Board authorize staff to initiate rulemaking to incorporate a threshold of feasibility consistent with the Task Force recommendation.

Staff recommended to:

- (1) Approve the Reclaimed Water Task Force Recommendation 2, as presented, and present it to the Basin Boards for their consideration of funding as a Basin Initiative during the FY2009 Budget process; and implement this initiative with the necessary controls to ensure the District's financial commitment is fully utilized; and
- (2) Approve the Reclaimed Water Task Force Recommendation 10 with modifications and as presented to eliminate different permitting criteria between new and renewed water use permits, so that if the cost to the user is more than the cost of existing or other sources of water, after conducting a full cost benefit analysis, then using reclaimed water would not be considered feasible; and authorize staff to initiate rulemaking to amend Chapter 40D-2, Florida Administrative Code, to incorporate the implementation of the recommendation.

Following consideration, **Ms. Glass moved, seconded by Ms. Symons, to approve staff recommendation (1). Motion carried unanimously.** (CD 1/Track 12 – 00:00/21:16)

Following consideration, **Ms. Closshey moved, seconded by Ms. McCree, to approve staff recommendation (2). Motion carried unanimously.** (CD 1/Track 12 – 21:16/35:13)

Submit & File Report

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

52. **Report from the Peer Review Panel of the Proposed Minimum Flows and Levels (MFL) for the Lower Alafia River**

Mr. Moore mentioned that the Peer Review Panel had very favorable comments with regard to the Proposed Minimum Flows and Levels for the Lower Alafia River.

Routine Reports

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

53. **Significant Water Supply and Resource Development Projects**
54. **Watershed Management Program and Federal Emergency Management Agency Map Modernization Status Report**
55. **Florida Forever Funding Status Report**
56. **Minimum Flows and Levels (MFL) Status Report**
Mr. Moore said the Lower Hillsborough River is doing very well since water was being taken from the Tampa Bypass Canal to help meet this MFL.
57. **Hydrologic Conditions Status Report**
58. **Structure Operations Status Report**

Ms. McCree thanked the staff members at Nature's Classroom for accommodating the Governing Board meeting today. She also thanked District staff for their hard work getting the meeting together offsite.

Resource Management Committee Chair Pressman relinquished the gavel to Finance and Administration Committee Chair Closshey.

Finance and Administration Committee

Discussion Items

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

Submit & File Report

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

60. **FY2009 Budget Impact of Amendment 1**
61. **Treasurer's Report, Payment Register, and Contingency Reserves Report**
(CD 1/Track 13 – 00:00/00:58)

Routine Report

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

62. **Management Services Status Report**

Finance and Administration Committee Chair Closshey relinquished the gavel to Outreach and Planning Committee Combee.

Outreach and Planning Committee

Discussion Items

63. **Consent Item(s) Moved for Discussion** - None

64. **Community Budget and Legislative Update Issue Requests**

Mr. David Rathke, Director, Community and Legislative Affairs Department, said as anticipated, the Governor has requested the Water Management District Governing Boards review and approve local government surface water projects. To be approved, projects must provide a water quality improvement to a water management district designated priority water body. The approved list will then be submitted to the Office of Policy and Budget. Staff has reviewed the projects submitted by local governments and the list of projects meeting the criteria was provided to the Board at today's meeting.

Staff recommended approval of the list of Community Budget Issue Request projects that, based on the information provided by the applicant, improve the water quality of a priority water body as designated by the District.

Following consideration, **Ms. Closshey moved, seconded by Ms. Parks, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 14 – 00:00/03:39)

Submit & File Reports – None

Routine Reports

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

65. **Significant Activities Report**
66. **Speakers Bureau**
67. **Comprehensive Plan Amendment and Related Reviews Report**
68. **Review of Developments of Regional Impact**

Outreach and Planning Committee Combee relinquished the gavel to Chair Whitehead.

Chair Whitehead recessed the public hearing for a short equipment break. (CD 1/Track 14 – 00:00/03:39)

General Counsel's Report

Discussion Items

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

At this time, an item not appearing on the published agenda was considered.

Consideration of Weeki Wachee Joint Stipulation - Southwest Florida Water Management District v. City of Weeki Wachee, et al. Circuit Court, Fifth Judicial Circuit, Case No. H-27-CA-2004-366RT (Moved from Closed Attorney-Client Session)

Mr. Joseph J. Ward, Assistant General Counsel, said the Joint Stipulation was approved at the January Governing Board meeting. Conditions of the Joint Stipulation included: closing on the state park transfer to DEP by November 1, 2008, the parties are to abide by all lease conditions, the LLC may hold community events, and this stipulation would end all litigation with the court retaining jurisdiction to reinstate pleadings if closing does not occur by November 1, 2008.

Mr. Ward reviewed the chronology leading up to today's request for affirmation of the Joint Stipulation. He noted that Weeki Wachee executed the Joint Stipulation on February 13, 2008, which was after the deadline.

Mr. Dabney stated that Chair Whitehead and Mr. Moore initiated correspondence on February 11 and February 13 regarding their personal assurances that the Governing Board had no intentions to undermine the transformation of Weeki Wachee into a state park. Mr. Dabney said it was his position that those letters constituted personal representations and while it was certainly appropriate for Chair Whitehead and Mr. Moore to represent their personal positions, they did not represent the position taken by the District's Governing Board at its January meeting. He stated that the Joint Stipulation constituted the entire agreement between the parties and that it would be inappropriate to reopen the negotiations and add any further conditions beyond those previously approved by the Governing Board at the January Governing Board meeting and subsequently signed by the City and the Attraction.

Staff recommended affirmation of the Joint Stipulation.

Following consideration, **Mr. Dabney moved, seconded by Ms. McCree, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 16 – 00:00/08:59)

70. **Final Order – WUP No. 20004912.006 – City of Lakeland v. SWFWMD, DOAH Case No. 07- 0564 – Polk County**

Mr. Moore said at this point negotiations between the District and the City regarding these matters are ongoing. Staff will provide the Governing Board with an update on this case at the March 25, 2008 meeting, unless a recommendation is developed and submitted for consideration earlier.

Submit & File Reports – None

Routine Reports

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

- 71. **Litigation Report**
- 72. **Rulemaking Update**

Reports

73. **Executive Director's Report**

Mr. Moore updated on the following two topics: the Sunset Review Commission and the proposed Hillsborough County-TECO Reclaimed Water project.

74. **Chair's Report**

Chair Whitehead reported on the dedication and memorial ceremony that took place on February 14, 2008 for Mr. John Parker, who was a long-term District employee.

Chair Whitehead reminded the Board members that Monday, March 24, 2008, there will be a Joint Workshop with the Withlacoochee Regional Water Supply Authority.

Mr. Pressman provided a brief summary of the February 11, 2008, Tampa Bay Regional Planning Council meeting. He said the meeting was well attended, and staff provided well organized and informative presentations.

Ms. Closshey said on January 10, 2008, she attended her first meeting of the Florida Aquarium Board. She said it was an honor to serve and looks forward to helping out. The Florida Aquarium will be hosting a fishermen's tournament on April 1, 2008.

Ms. Symons encouraged Board members to follow up with the University of Florida regarding comments made by their President that agriculture is no longer viable in the state of Florida.

Mr. Oakley said he attended the Lake Panasoffkee Restoration Council Meeting on February 22, 2008. He said the Council remains hopeful that restoration will conclude by August of this year.

Ms. McCree welcomed Mr. Joerger to the Governing Board and said he has a lot of good work to look forward to.

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

The meeting was adjourned at 11:50 a.m. (CD 1/Track 17 - 00:00/20:45)

Attest:

Chairman

The Southwest Florida Water Management District does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the District's functions including one's access to, participation, employment, or treatment in its programs or activities. Anyone requiring reasonable accommodation, as provided for in the Americans with Disabilities Act, should contact the Executive Department, telephone 1-800-423-1476 (Florida only), extension 4610; TDD ONLY 1-800-231-6108 (Florida only); FAX 352-754-6874.