

APPROVED

MINUTES OF THE MEETING

Governing Board Southwest Florida Water Management District

Brooksville, Florida

September 25, 2007

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met at 9:00 a.m. on September 25, 2007, at Brooksville headquarters. 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
Heidi B. McCree, Member
Ronald E. Oakley, Member
Sallie Parks, Member
Maritza Rovira-Forino, 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

Patsy C. Symons, Member

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 1 – 00:00/02:14)

Public Hearing

Chair Whitehead noted that this Governing Board meeting is being broadcasted to the Bartow, Tampa, and Sarasota Service Offices using the video conferencing system for the purpose of viewing the Board meeting only. Public input will only be taken at the Brooksville office. The Governing Board's meeting is also being 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 blue 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 blue 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. (CD 1/Track 2 – 00:00/02:14)

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 that have been added and deleted to the agenda were received by the District or deleted after publication of the regular agenda. (CD 1/Track 3 – 00:00/03:19)

Mr. Moore said there will not be a closed attorney-client session held during the lunch break.

Consent Agenda

The following items were deleted from consideration:

- 25. ERP No. 43031858.001 - Channel Club Multi-Family Docks – Pinellas County
- 26. ERP No. 46032127.000 - Boca Bay Townhomes (**DENIAL**) – Pinellas County

Resource Management and Development Committee

The following item was integrated into Item 72, Significant Water Supply and Resource Development Projects:

- 73. Watershed Management Program/Federal Emergency Management Agency Map Modernization

Outreach and Planning Committee

The following item was deleted from consideration:

- 86. Fiscal Year 2009 Strategic Plan Update

4. **District Recognition – Florida's Heartland Rural Economic Development Initiative, Inc. Award**

Mr. Roy Mazur, Director, Planning Department, said that Florida's Heartland Rural Economic Development Initiative (FHREDI) is a not-for-profit corporation formed in 1993. FHREDI's mission is to enhance regional partnership to support economic development by assisting in the creation and support of regional plans for business expansion and retention, education, housing and transportation. FHREDI works closely with local, state and federal officials to strategically create a strong economy for the South Central Rural Area of Critical Economic Concern. The District's partnership with FHREDI, along with other partners, is critical to creating sustainability for the region. The award recognized the District specifically for: District staff attendance at all Board meetings; Regulatory and technical assistance on member's water resource permits; and Funding support through \$5,000 annual dues. This item was presented for the Board's information, and no action was required.

5. **Employee Recognition**

Mr. Moore made presentations to the Board for the employees who had achieved milestones of 20 years or greater to specially acknowledge and commend the contributions of these individuals.

The following individuals celebrated 20-year milestones: Ms. Suzane "Sue" Carter, Regulation Processing Specialist, Regulation Performance Management; Ms. Georgia Hudson, Senior Administrative Assistant, Resource Management; and Ms. Miki Renner, Northern District Planning Manager, Planning Department.

The following individuals celebrated 25-year milestones: Mr. Mark Barcelo, Hydrologic Evaluation Section, Resource Conservation and Development; and Ms. Adeline Wood, Senior Compliance Coordinator, Regulation Performance Management.

Mr. Rand Baldwin, Senior Governmental Affairs Coordinator, Community and Legislative Affairs, celebrated 35 years with the District and announced his retirement.

Mr. Ralph Lair, Senior Community Affairs Coordinator, Community and Legislative Affairs, was hired on September 17, 2007. Mr. Lair reports to Mr. David Rathke, Community and Legislative Affairs Director and will be based out of the Tampa Service Office. (CD 1/Track 4 – 00:00/16:29)

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

Dr. Octavio Blanco, Pasco County resident, addressed the Governing Board regarding messaging campaigns he recently heard, while traveling outside of the state, regarding water conservation and water related issues. He said that he was impressed with the frequency in which these messages were aired and hoped the District would step-up its messaging program. (CD 1/Track 5 – 00:00/03:35)

Consent Agenda

Items 25 and 26 were deleted from consideration. Item 38 was moved to the Regulation Discussion agenda. Mr. Combee declared a conflict of interest for Item 55.

Regulation Committee -- Environmental Resource Permits

7. ERP No. 43006278.002 - The Avenues (fka Airport Road Multi-Family) – Charlotte County
8. ERP No. 43029066.001 - Mariner's Landing - Multi-Family Docking Facility – Charlotte County
9. ERP No. 43026742.001 - Manchester on the River – DeSoto County
10. ERP No. 43029756.001 - Cedar Mountain Estates – Hernando County
11. ERP No. 43021639.003 - FDOT - I-75 at County Road 581 (Bruce B. Downs) Flyover – Hillsborough County
12. ERP No. 43026709.008 - Summerfield Crossings - Phase II Master Drainage Plan – Hillsborough County
13. ERP No. 44030771.000 - Oak Haven Townhomes (**DENIAL**) – Hillsborough County
14. ERP No. 43032172.000 - Whitehurst Borrow Pit – Levy County
15. ERP No. 43000492.037 - Cooper Creek Office Campus – Manatee County
16. ERP No. 43000492.038 - University Outlet Mall Expansion – Manatee County
17. ERP No. 43020580.042 - The Landing at Heritage Harbour, Phase 1 – Manatee County
18. ERP No. 43028201.005 - Bel Lago - West Hamlet – Marion County
19. ERP No. 43032322.000 - Equis Subdivision – Marion County
20. ERP No. 43013809.024 - Lake Jovita - Smith Property – Pasco County
21. ERP No. 43023534.016 - Connerton Commerce Park – Pasco County
22. ERP No. 43023781.021 - Concord Station - Ph 2 Units A & B, Ph 4 Unit C – Pasco County
23. ERP No. 43025522.002 - Madeira Grande Multi-Use Docks – Pinellas County
24. ERP No. 44030720.000 - Heritage Lakes Condominiums (**DENIAL**) – Pinellas County
- ~~25. ERP No. 43031858.001 - Channel Club Multi-Family Docks – Pinellas County~~
- ~~26. ERP No. 46032127.000 - Boca Bay Townhomes (**DENIAL**) – Pinellas County~~
27. ERP No. 43028927.004 - The Lakes at Laurel Highlands – Polk County
28. ERP No. 43032213.000 - B & B Ranch – Polk County
29. ERP No. 43032251.001 - Valencia at Dundee – Polk County
30. ERP No. 43030016.001 - US 41 Mobile Home Park – Sarasota County

Regulation Committee -- Water Use Permits

31. WUP No. 20007957.011 - DeSoto Grove 1/Turner Groves Citrus Ltd. Partnership – DeSoto County
32. WUP No. 20000377.006 - Marion Oaks/Marion County Utilities – Marion County
33. WUP No. 20008165.004 - Quail Meadows/Marion County Utilities – Marion County
34. WUP No. 20011475.002 - Bel Lago/Arbor Springs Investments, LLC, Arbor Springs Properties, LLC and Arbor Springs Development, LLC – Marion County
35. WUP No. 20011602.001 - McGinley Family Limited Partnership – Marion County
36. WUP No. 20008135.007 - City of Wildwood – Sumter County

Regulation Committee -- Other

37. **Approve Final Language to Amend Rules 40D-4.021, 40D-4.041, 40D-4.321 and 40D-4.331, Florida Administrative Code (F.A.C.), Regarding Conceptual Environmental Resource Permits**
Staff recommended approval of the final rule language and authorization of staff to complete the rulemaking process to amend Rules 40D-4.021, 40D-4.041, 40D-4.321 and 40D-4.331, F.A.C., to allow greater flexibility, reduce the level of application detail required, and to extend the duration of conceptual permits.
38. **Approve Changes to Proposed Amendments to 40D-2.091, F.A.C., and Part B, Basis of Review, of the Water Use Permit Information Manual to Expand the Southern Water Use Caution Area Per Capita Requirements Districtwide**
Staff recommended authorization of changes, as shown in the Exhibit, to Part B, Basis of Review, of the Water Use Permit Information Manual that was approved by the Governing Board in August 2007, to expand the SWUCA per capita and reporting requirements to those portions of the District outside the SWUCA.
39. **Initiate Rulemaking to Amend 40D-2.301(2), F.A.C., Conditions for Issuance of Permits to Clarify the Type of Environmental Resource Permit Required Prior to Obtaining a Water Use Permit**
Staff recommended initiation of rulemaking to amend 40D-2.301(2), F.A.C., to address environmental resource permitting requirements for issuance of a water use permit for multi-phase projects that require both a water use permit and an environmental resource permit.
40. **Approve Final Language to Amend Rule 40D-4.051, F.A.C., to Create an Exemption from Permitting for Construction of Sidewalks and Recreational Trails**
Staff recommended approval of the proposed final language to amend Rule 40D-4.051, F.A.C., to establish exemptions from permitting for sidewalks and for recreational trails.
41. **Approve Revised Water Use Permit Application Forms to Request Information on Corporate, Partnership and Other Business Entity Applicants**
Staff recommended approval of the proposed revised Water Use Permit application forms and amendment of 40D-1.659, F.A.C., to incorporate the revised District forms by reference.
42. **Fiscal Year 2007 Board Encumbrance – Florida Department of Transportation (FDOT) Mitigation**
Staff recommended approval of the encumbrance of \$3,034,874 of FY2007 budgeted funds to be used in FY2008 for FDOT Mitigation projects.

Resource Management & Development Committee

43. **Fiscal Year 2007 Board Encumbrance – Peace Creek Canal Watershed Management Project (Presented to the Peace River Basin Board at its July meeting)**
Staff recommended approval of the encumbrance of \$747,642, with \$373,821 from the Governing Board and \$373,821 from the Peace River Basin Board, without a contract for the Peace Creek Watershed Management Plan Project to be used in FY2008 for canal restoration and maintenance, engineering design, and permitting.

44. **Contingency Reserves Fund Transfer for Three Temporary Pump Stations in Support of the Lower Hillsborough River Recovery Strategy and Encumber Funds for Use in Fiscal Year 2008**

Staff recommended:

- (1) Approval of the transfer of \$1,000,000 from the General Fund FY2007 Contingency Reserves for:
- (2) Construction, operation, and maintenance of three temporary pump stations to pump water from the lower and middle pools of the TBC into the Hillsborough River reservoir, and from the reservoir to the LHR;
- (3) A consultant to provide technical support for the more permanent installation of the three temporary pump stations; and
- (4) A consultant to begin the preliminary design and engineering for the permanent pump station from Morris Bridge sink to the middle pool of the TBC in support the District's responsibilities in implementing the recovery strategy for the LHR.
- (5) Approval of the encumbrance of these funds, without a contract, to be used for the project in FY2008.

45. **Senate Bill 444 Water Protection and Sustainability Trust Fund – Approval of Resolution and Approval of Fiscal Year 2008 Projects**

Staff recommended approval of Resolution 07-32 which reflects the project list and allocation of \$15 million in FY2008 WPSTF funds to a number of projects receiving FY2008 WPSTF funds.

46. **Five-Year Water Resource Development Work Program**

Staff recommended approval of the proposed Five-Year Water Resource Development Work Program for submittal to the Department of Environmental Protection for review.

47. **Peace Creek Canal Watershed Management Project Equipment Acquisition**

Staff recommended approval of the transfer of \$130,000 from General Fund FY2007 Contingency Reserves for the purchase of the Marsh Master to be used for canal restoration and maintenance activities.

48. **Contract Amendment to the Facilitating Agricultural Resource Management Systems Program – Lykes Brothers, Inc. – Lake Placid Grove, Highlands County**

Staff recommended:

- (1) Approval of the Lykes Brothers, Inc – Lake Placid Grove Phase 1A FARMS Contract Amendment for a not-to-exceed project reimbursement of \$3,100, with funds provided by FDACS and allocated to the Governing Board;
- (2) Authorization of the transfer of \$3,100 from fund 010 H017 Governing Board FARMS funds, to H521 Lykes Brothers, Inc. – Lake Placid Grove Phase 1A FARMS project fund, contingent upon the approval of the FY08 Annual Budget;
- (3) Authorization of the Executive Director to execute the agreement.

49. **Facilitating Agricultural Resource Management Systems Program – Lykes Brothers, Inc. – Camp Mack Grove, Polk County**

Staff recommended:

- (1) Approval of the Lykes Brothers, Inc – Camp Mack Grove FARMS Project for a not-to-exceed project reimbursement of \$50,000, with funds provided by FDACS and allocated to the Governing Board;
- (2) Authorization of the transfer of \$50,000 from fund 010 H017 Governing Board FARMS funds, to 010 H525 Lykes Brothers, Inc. – Camp Mack Grove FARMS project fund, contingent upon the approval of the FY08 Annual Budget;
- (3) Authorization of the Executive Director to execute the agreement.

50. **Continuation of Public Hearing Requested by James P. Gills, Trustee, on Proposed Minimum and Guidance Levels for Crews Lake in Pasco County**

Staff recommended continuation of the public hearing requested by James P. Gills, Trustee, on the proposed Minimum and Guidance Levels for Crews Lake in Pasco County until the October 2007 Governing Board meeting.

Finance & Administration Committee

51. **Board Travel**

As of September 12, 2007, the following travel outside the geographic boundaries of the District was scheduled: Jennifer E. Closshey will to attend the Florida Farm Bureau's Renewal Energy Tour in Iowa, from October 21 - 24, 2007. All eleven Governing Board members are planning to attend the Public Lands Acquisition and Management Conference in Sarasota, from December 5-7, 2007. Staff recommended approval of Governing Board travel as designated above.

52. **Budget Transfer Report**

Staff recommended approval of the Budget Transfer Report covering all budget transfers for August 2007.

53. **Fiscal Year 2007 Board Encumbrance – Records Management Software**

Staff recommended approval of the encumbrance of funds in an amount not to exceed \$150,000 in FY2007 for the purchase of the Oracle Universal Records Management software from current vendor, Advanced Data Systems or equivalent product consistent with the ECM strategy in FY2008.

General Counsel's Report

54. **Consent Order – Surface Water Activity – Lamar Vice and Madge Vice – Polk County**

Staff recommended approval of the proposed consent order and authorize the initiation of litigation against Lamar Vice and Madge Vice as necessary to obtain compliance with the consent order.

55. **Consent Order – WUP No. 20008005.003 - Century-Fairfield Village, Ltd. (Century-Fairfield Village Mobile Home Park) – Marion County**

Staff recommended approval of the proposed consent order and authorize the initiation of litigation in the event that Century – Fairfield Village, Ltd. fails to comply with the consent order.

56. **Initiation of Litigation – ERP No. 46024453.000 - Manasota Electric, Inc. (Aliotta Warehouse) – Manatee County**

Staff recommended the initiation of litigation against Manasota Electric, Inc. and any other appropriate parties to obtain compliance, to recover an administrative fine/civil penalty, and to recover District enforcement costs, court costs and attorney's fees.

57. **Initiation of Litigation – ERP No. 4618723.00 - Hector J. Barajas (Barajas Convenience Store) – DeSoto County**

Staff recommended the initiation of litigation against Hector J. Barajas and any other appropriate parties to obtain compliance, to recover an administrative fine/civil penalty, and to recover District enforcement costs, court costs and attorney's fees.

58. **Contract Amendment – Bush, Graziano & Rice, P.A. for Fiscal Years 2007 and 2008 Legal Services**

Staff recommended (1) approval of a \$455,000 contract amendment for legal services with Bush, Graziano & Rice, P.A., which is budgeted in the Office of General Counsel's outside legal services budget; and (2) approval of \$215,000 of the amendment from available FY2007 funds and the remaining \$240,000 from the FY2008 budget.

Executive Director's Report

59. **Approval of Minutes – August 28, 2007 Governing Board Meeting**

Staff recommended approval of the August 28, 2007 meeting minutes.

Following consideration, **Mr. Dabney moved, seconded by Ms. Closshey, to approve the Consent Agenda as amended. Motion carried unanimously.** (CD 1/Track 6 – 04:09/04:26)

Following consideration, **Ms. Closshey moved, seconded by Mr. Dabney, to approve the Consent Agenda Item 55. Motion carried; Mr. Combee abstained from voting.** (CD 1/Track 6 – 00:00/01:34)

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

Regulation Committee

Discussion Items

60. Consent Item(s) Moved for Discussion

38. Approve Changes to Proposed Amendments to 40D-2.091, F.A.C., and Part B, Basis of Review, of the Water Use Permit Information Manual to Expand the Southern Water Use Caution Area Per Capita Requirements Districtwide

Mr. Owen said staff has received some public input regarding this item since the last Board meeting, in light of these recent comments. He said staff will be making additional changes to this item and will come back before the Governing Board in October or November with additional recommendations.

Ms. Lynette Vermillion, representing the Community Development District (CDD) from Marion County, addressed the Governing Board regarding the 150 per capita water use goal. She said this was unfair criteria for the whole District to attain when there are age restricted communities that do not have high density numbers or reclaimed water systems to help set off their per capita use. The CDD is asking for more time to work with staff on obtaining equitable measurement of water use and allow their community time to work towards a per capita water use rate of 150 gppd.

Staff recommended authorization to make the changes, as shown in the exhibit, to Part B, Basis of Review, of the Water Use Permit Information Manual that was approved by the Governing Board in August 2007 to expand the SWUCA per capita and reporting requirements to those portions of the District outside the SWUCA.

Following consideration, **Ms. McCree moved, seconded by Mr. Oakley, to approve the aforementioned staff recommendation. Motion carried unanimously.**
(CD 1/Track 7 - 00:00/21:04)

61. Demand Management Activities

- a. Governing Board Concurrence with Executive Director's Issuance of First Modification to Executive Director Orders SWF 07-042, SWF 07-043 and SWF 07-045
- b. Approve Second Modification to Water Shortage Order SWF 07-02

Mr. Owen said Tampa Bay Water relies on several sources within its regional water supply system to meet the water needs of approximately 2.1 million residents of its member governments (the City of New Port Richey, City of St. Petersburg, City of Tampa, Hillsborough County, Pasco County and Pinellas County). The C.W. Bill Young Regional Reservoir is used to store water from Tampa Bay Water's surface water sources; when full, the Reservoir stores approximately 15.0 billion gallons of water. Dr. Alison Adams, Source Rotation and Environmental Protection Manager, Tampa Bay Water, addressed the Board regarding the Emergency Orders. She said Tampa Bay Water has determined that at least 9 billion gallons of water should be stored in the Reservoir at the end of this rainy season in order to meet water demands from its member governments in the upcoming dry season. On August 2, 2007, Tampa Bay Water requested emergency authorization to increase augmentation of the Reservoir from its permitted surface water sources in order to achieve that goal. The Executive Director issued orders SWF 07-042 and SWF 07-043 authorizing certain changes in permitted withdrawals from surface water sources.

Mr. Pat Lehman, Executive Director, Peace River/Manasota Regional Water Supply Authority, said 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. The Authority typically stores water from the Peace River in its reservoir and ASR wellfields during periods of high flow for later use during the annual dry season or when other supplies are not sufficient to meet potable water demand. When full, the reservoir stores approximately 625 million gallons of water and the two ASR wellfields together store approximately 7.3 billion gallons. This emergency authorization and subsequent extension has helped the Authority increase its storage by approximately 523 million gallons, bringing the total quantity in storage up to about 773 million gallons as of September 10, 2007.

Ms. Alys Brockway, Water Conservation Coordinator, Hernando County, addressed the Governing Board regarding the key components of the County's water conservation program and its water restriction enforcement efforts.

Mr. Owen said staff continues to monitor drought indicators to determine if an additional extension of current restrictions or implementation of more stringent restrictions will be necessary as the rainy season comes to a close. At a minimum, an extension of the current restrictions to the end of November is warranted. Ms. Kavouras said media messaging will be geared this fall to ask people to voluntarily skip a week and water their lawns every other week or to cease outdoor irrigation completely.

Committee Chair Rovira-Forino heard public comment at this time.

Dr. Octavio Blanco addressed the Governing Board stating his opinion that water restrictions should be continually tightened and enforced to achieve compliance from the public. He said, if we simply continue with the status quo, we will continue to lose wetlands.

Mr. Hugh Gramling, Tampa Bay Wholesaler Growers and the Florida Nursery Landscaping Growers Association, addressed the Governing Board to encourage them to follow the adopted water shortage plan. He also encouraged the Board to partner with the University of Florida in refining its science regarding skipping a week of irrigation and other creative water restrictions to ensure minimizing the effects on landscapes.

Staff recommended the following:

- (1) Concurrence with the issuance of First Modification to Executive Director Order No. SWF 07-042 for increased withdrawals from the Tampa Bypass Canal and the Hillsborough River to augment the C. W. Bill Young Reservoir.
- (2) Concurrence with the issuance of First Modification to Executive Director Order No. SWF 07-043 for increased withdrawal from the Alafia River to augment the C.W. Bill Young Reservoir.
- (3) Concurrence with the issuance of First Modification to Executive Director Order No. SWF 07-045 for increased withdrawal from the Peace River to augment the Peace River/Manasota Regional Water Supply Authority's reservoir and ASR wellfields.
- (4) Governing Board approval of the Second Modification to Water Shortage Order No. SWF 07-02, that extends the current water shortage restrictions to November 30, 2007.

Following consideration, **Ms. McCree moved, seconded by Mr. Dabney, to concur with staff recommendation (1) and (2). Motion carried unanimously.** (CD 1/Track 8 - 00:00/18:49)

Following consideration, **Ms. McCree moved, seconded by Mr. Oakley, to concur with staff recommendation (3). Motion carried unanimously.** (CD 1/Track 8 - 18:49/45:22)

Following consideration, **Mr. Dabney moved, seconded by Ms. Parks, to concur with staff recommendation (4). Motion carried unanimously.** (CD 1/Track 8 - 45:22/01:28:34)

62. **Overview of Tampa Bay Water's 2007 Optimized Regional Operations Plan Annual Report**

Mr. Owen said the 1998 Partnership Agreement between the District, the West Coast Regional Water Supply Authority (now Tampa Bay Water (TBW)), and the Authority's member governments required an annual report submittal discussing the Optimized Regional Operations Plan (OROP). The OROP was initially used to determine the distribution of groundwater withdrawals at the 11 well fields and assist in the overall recovery of water resources that had been adversely impacted by groundwater withdrawals. Since development of alternative water supplies, the OROP has been modified to include these new sources in the scheduling of production from the well fields. The Water Year 2006 OROP Annual Report was submitted to the District for review and approval and was recently approved by the District. This presentation also provided a report on the accomplishments to-date and future milestones, monitoring progress, other Partnership Agreement requirements, and the process by which compliance with these provisions will be established. This item was presented for the Committee's information, and no action was required. (CD 1/Track 8 - 01:28:34/02:02:30)

63. **Initiate Rulemaking to Amend 40D-21.231, 40D-21.331 and 40D-21.441, F.A.C., Clarifying Intent of Public Supply Water Shortage Mitigation Plan Provisions of the District's Water Shortage Plan**

Ms. Lois Ann Sorensen, Demand Management Coordinator, Regulation Performance Management Department, said the current version of the District's Water Shortage Plan (40D-21, F.A.C.) was a product of a multi-year, multi-rule revision process, including extensive public input, which concluded with the Board's approval of an updated plan in April 2006.

Staff recommended approval of the proposed rule language and authorization for staff to complete the rulemaking process, provided no substantive comments are received from the Public Supply Advisory Committee.

Dr. Alison Adams, Source Rotation and Environmental Protection Manager, Tampa Bay Water, addressed the Board regarding the intent of the District's Water Shortage Mitigation Plan ("WSMP") mechanism that allows a regional water supply authority or local water supplier, under certain specified criteria, to request a variance or waiver from the District from provisions of the Plan in order to tailor water shortage responses to the authority's or local supplier's system's needs and characteristics.

Following consideration, **Mr. Dabney moved, seconded by Ms. Parks, to approve the aforementioned staff recommendation. Motion carried unanimously.** (CD 1/Track 9 - 00:00/12:46)

Submit & File Reports – None

Routine Reports

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

64. **Overpumpage Activities**
65. **Southern Water Use Caution Area Quantities**
66. **Water Production Supply Summary**
67. **Resource Regulation Significant Initiatives Report**

Chair Whitehead recessed the public hearing for a lunch break.

Following the lunch break, Chair Whitehead relinquished the gavel to Resource Management and Development Committee Chair Pressman.

Resource Management and Development Committee

Discussion Items

68. **Consent Item(s) Moved for Discussion** - None
69. **Authorize the Lake Hancock Lake Level Modification Project; Adopt Resolution Authorizing Proceedings in Eminent Domain, including a Declaration of Taking; and Amend the 2007 Update to the Florida Forever Work Plan**

Mr. Mark A. Hammond, Director, Resource Management Department, said the purpose of this item is to request the Governing Board (1) authorize the Lake Hancock Lake Level Modification Project (2) adopt a resolution authorizing proceedings in eminent domain (3) amend Florida Forever Work Plan and Designate Funds, and (4) authorize the use of General Fund Water Supply and Resource Development Reserve and Designate Funds.

The District is required by state law (Section 373.042, Florida Statutes (F.S.)) to develop minimum flows and levels (MFL) on priority water bodies and aquifers. The purpose of the MFL is to ensure that adequate flows or levels are maintained to protect the state's water resources. The District has set minimum flows for the upper Peace River including 17 cubic feet per second (cfs) at Bartow, 27 cfs at Fort Meade, and 45 cfs at Zolfo Springs. Flows in the upper Peace River were below the minimum flows at Fort Meade approximately 28 percent of the time during the last 30 years. The District's Southern Water Use Caution Area (SWUCA) Recovery Strategy includes a recovery strategy, as required by state law (Section 373.0421, F.S.), for the upper Peace River because the minimum flows are not currently being met. The District is focusing on a series of projects to restore the historically lost lake and floodplain storage to aid in reestablishing minimum flows. The project areas include Lake Hancock, Peace Creek Canal, and the mined lands around Bartow. The Lake Hancock Lake Level Modification Project is critical in the District's strategies for meeting the minimum flows in the upper Peace River. The goal of the project is to store water by raising the control elevation of the existing outflow structure on Lake Hancock from 98.7 to 100.0 feet and to slowly release water during the dry season to help meet the low flow requirements in the upper Peace River. Historically, the lake level was approximately one to two feet higher than the current operating level. The Lake Level Project is anticipated to recover up to approximately 50 percent of the minimum flows for the upper Peace River, which includes accounting for up to 25 cfs of sink losses within the river. Additionally, the Project will improve the function of approximately 1,000 acres of wetlands around the lake.

Land acquisition and public outreach are critical elements of the Project and have been ongoing and will continue throughout the Project. Implementation of the Project will require the additional acquisition of certain property rights on approximately 2000 acres, involving 64 parcels and 33 homes. Several meetings have been held with the property owners that will be affected by the Project. A landowner is entitled to full compensation that includes the value of the property rights taken, interest, attorneys' fees and costs of expert witnesses.

To date \$48,091,950 has been utilized in acquiring approximately 6,424 acres of land and interests in land as part of the greenway portion of the Lake Hancock project. The funds to purchase this land have come from the Florida Forever Trust Fund. An estimated \$80 million to \$160 million will be needed to purchase the additional land and interests in land needed for the Lake Level Project. Upon Board authorization of the Project, staff will proceed with design, obtain permits, and construct the facilities and acquire the land

interests necessary for the Project. These activities will take approximately three years to complete.

Mr. Dabney said, on behalf of the Governing Board, that they do not take their condemnation powers lightly, that it would be regrettable to have to use eminent domain to finish the acquisition process of this regionally beneficial project.

Committee Chair Pressman heard public comment at this time.

Ms. Margie Griffin, a resident on Lake Hancock, stated that she is not a willing seller and she will be losing her beloved house.

Ms. Joanna Lahey, a resident on Lake Hancock, said she is concerned about the increased amount of property taxes she will be faced with in the future due to being forced to purchase a new house. In addition, she is concerned about a nearby cemetery and encouraged the District to do the best they can to preserve the gravesites because she has a loved one buried there.

Mr. Emmett Griffin, a resident on Lake Hancock, expressed his anger regarding the Lake Hancock Project and the personal impact it has had on him and his family.

Board members discussed the issues raised by the citizens who came before the Board today. Topics included: compensation for property taxes within an eminent domain situation, the cemetery and continued monitoring of flooding issues, project benefits and land acquisition.

The Governing Board members reinforced their empathy for the homeowners who would have to move due to this project and reminded them of the project's regional benefits.

Staff recommended the following:

- (1) Authorize staff to implement the Lake Hancock Lake Level Modification Project including the final design, permitting, and construction of the necessary improvements for a lake operating level of 100.0 feet NGVD;
- (2) Adopt the Resolution Authorizing Proceedings in Eminent Domain, including a Declaration of Taking;
- (3) Amend the 2007 Update to the Florida Forever Work Plan to include all lands identified as necessary for the Project, and designate \$41 million in Florida Forever Trust Funds for the Project; and
- (4) Designate and encumber \$79 million in General Fund Water Supply and Resource Development Reserve funds for the Project.

Following consideration, **Mr. Dabney moved, seconded by Ms. Glass, to approve the aforementioned staff recommendation. Motion carried unanimously.** (CD 1/Track 10 - 00:00/57:50)

70. **Reports from the Peer Review Panel of Proposed Minimum Flows and Levels** (MFLs)

a. **Upper Segment of the Hillsborough River from Crystal Springs to Morris Bridge and Crystal Springs**

Dr. Martin Kelly, Manager, Ecologic Evaluation Section, Resource Conservation and Development Department introduced Dr. Mark Stewart, Professor, University of South Florida. Dr. Stewart presented the report documenting the findings of the voluntary independent scientific peer review of the proposed MFLs for the upper Hillsborough River and Crystal Springs.

Dr. Stewart said the panel thought the conclusions in the report were well supported by the data, procedures and analyses that were presented by the District. The panel continues to endorse the District's overall approach for setting MFLs in riverine ecosystems and finds particular merit in the use of seasonal building blocks, multiple benchmark periods based on multi-decadal climate variability, the use of multiple analysis tools for protecting both low and high flow regimes and the expression of MFLs as percent flow reductions. Overall, the panel found the methodologies used to be appropriate and innovative.

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

b. **Upper Segment of the Braden River from Linger Lodge to Lorraine Road**

Dr. Charles Cichra, Professor, Department of Fisheries and Aquatic Sciences, University of Florida, presented the report documenting the findings of the voluntary independent scientific peer review of the proposed minimum flows and levels for the upper segment of the Braden River.

Dr. Cichra said the panel thought the conclusions in the report were well supported by the data, procedures and analyses that were presented by the District. The panel endorses the District's approach to setting MFLs and found no errors or flaws. The panel worked with District staff to suggest where data links could be strengthened slightly moving forward.

This item was presented for the Committee's information, and no action was required.
(CD 1/Track 11 - 00:00/35:41)

Submit & File Report

71. **Minimum Flows and Levels Priority List and Schedule Update**

Mr. Moore said staff will distribute the draft Priority List for 2008 for purposes of conducting the public input process prior to returning to the Governing Board in October for approval of the list that will be submitted to DEP by November 15, 2008 as required by statute.

Routine Reports

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

72. **Significant Water Supply and Resource Development Projects**

73. **Watershed Management Program/Federal Emergency Management Agency Map Modernization**

74. **Fiscal Year 2007 Land Management Reviews Summary**

75. **Florida Forever Funding Status Report**

76. **Minimum Flows and Levels Status Report**

77. **Hydrologic Conditions Status Report**

78. **Structure Operations Status Report**

Committee Chair Pressman relinquished the gavel to Chair Whitehead who recessed the public hearing for a short break.

Following the break, Chair Whitehead relinquished the gavel to Finance and Administrative Committee Closshey.

Finance and Administration Committee

Discussion Items

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

80. **Fiscal Year 2008 Budget Update**

Treasurer Closshey read highlights from an approval letter the District received from Governor Crist regarding the Fiscal Year 2008 Budget. She also said the first public hearing was held September 11, 2007, at 5:01 p.m. at the Tampa Service Office and that the second and final public hearing was scheduled for September 25, 2007, at 5:01 p.m. at District's Headquarters. A copy of the *Public Budget Hearings Fiscal Year 2008 Annual Service Budget* booklet was provided in advance of the first public hearing.

This item was presented for the Committee's information, and no action was required.
(CD 1/Track 12 - 00:00/04:14)

Submit & File Report

81. **Treasurer's Report, Payment Register, and Contingency Reserves Report**

Routine Report

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

82. **Management Services Status Report**

Chair Whitehead turned the gavel over to Outreach and Planning Committee Chair Combee.

Outreach and Planning Committee

Discussion Items

At this time, the order of consideration was altered slightly.

84. **Overview of the May 18, 2007 Reality Check and Subsequent One Bay Initiative**

Ms. Amy Maguire, One Bay Project Manager, Tampa Bay Partnership, said on May 18, 2007, over 300 leaders from the Tampa Bay region participated in an exercise to build consensus on regional growth issues. The event, Reality Check Tampa Bay, provided a forum to educate our community on projected growth of the Tampa Bay region. Diverse participants from seven counties (Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota) were representatives of the public, private and not-for-profit sectors. Using engaging materials, participants in groups of ten made decisions where and how the region should grow. The table top exercise educated the participants about the interrelationships among regional, land use, transportation systems and natural resources. Along the way, they discovered a remarkable level of agreement on growth principles. Reality Check Tampa Bay was the tipping point toward a community dialogue about a regional vision. The success of Reality Check Tampa Bay was largely due to broad community partnerships. In addition to the hundreds of sponsors and volunteers with the leadership guidance of five marquis partners, those partners included Urban Land Institute, Tampa Bay District Council, Tampa Bay Partnership Regional Research and Education Foundation Vision21 Steering Committee, Tampa Bay Estuary Program, Tampa Bay Regional Planning Council, and Southwest Florida Water Management District. Ms. Maguire reviewed the Prioritized Guiding Principles that emerged from the session: (1) promote quality communities to create a sense of place by uniquely clustering higher density mixed-use development, organized around transportation corridors; (2) maximize mobility using multi-modal transportation; (3) preserve natural systems, emphasizing connectivity and sustainable water supplies; (4) balance jobs and housing for affordable quality of life; (5) attract higher paying jobs – strengthen economic development; and (6) Preserve farmland and sustain the role of agriculture.

The next step required to achieve success is the development of a long-term shared regional vision and implementation effort guided under the initiative of "ONE BAY." The focus in the coming months will be to broaden the community conversation about regional visioning and smart growth. The goal will be to build upon the guiding principles for quality

growth by gathering input that creates more housing opportunities closer to jobs, choices for transportation needs, preservation of our green space, and access to natural assets.

This item was presented for the Committee's information, and no action was required. (CD 1/Track 13 - 00:00/21:05)

83. **Twenty Years of the Surface Water Improvement and Management Program**

Ms. Jennette M. Seachrist, SWIM Program Manager, Resource Management Department, provided the Board with an update on the accomplishments of the District's Surface Water Improvement and Management (SWIM) Program and to recommend the Board approve the Resolution to declare October 2007 "Surface Water Improvement and Management Month."

In 1987, the Florida Legislature established the SWIM Act to protect, maintain, and restore Florida's surface water bodies. The Act required the five water management districts identify and select a list of priority water bodies of statewide significance within their boundaries, and develop programs to improve them. The District adopted ten SWIM priority water bodies which include Tampa Bay, Rainbow River, Banana Lake, Crystal River/Kings Bay, Lake Panasoffkee, Charlotte Harbor, Lake Tarpon, Lake Thonotosassa, Winter Haven Chain of Lakes and Sarasota Bay. For 20 years, the District's SWIM Program has improved water quality and restored habitats in these ten priority water bodies. Since 1987, the SWIM Program has completed over 200 habitat restoration and water quality improvement projects, resulting in more than 3,000 acres of restored habitat.

To celebrate the accomplishments of the District's SWIM Program over the last 20 years, the District will host three events, two in October and one in November. On October 12, 2007, the District will host an event at the site of the Lake Hartridge Stormwater Treatment Project (Winter Haven Chain of Lakes) and on October 17, 2007, an event at the Charlotte Harbor Environmental Center will be held. These two events will recognize the partners and projects associated with each region. On November 2, 2007, the District will host its main event for the 20th Anniversary of SWIM at the Cockroach Bay Project site. This event will recognize the partnerships and projects for all ten SWIM water bodies. The District will promote the events with news releases and press kits with information on the history of the SWIM Program, and the media will be invited to attend the events that fall in their coverage area.

Staff recommended the Board approve Resolution 07-33 designating the month of October 2007, as the Surface Water Improvement and Management Month in recognition of the 20 years of accomplishments.

Following consideration, **Ms. Parks moved, seconded by Ms. McCree, to approve Resolution 07-33 designating the month of October 2007, as the Surface Water Improvement and Management Month. Motion carried unanimously.** (CD 1/Track 14 - 00:00/27:51)

85. **Legislative Update**

Mr. David Rathke, Director, Community and Legislative Affairs Department, said Federal appropriations are expected to be minimal with limited earmarks. The District continues to work on the following topics: WateReuse Association, Private Activity Bonds, Tax Credit Bonds, and the Water Resources Development Act.

At the State level a Special Session is scheduled for October 3-12, 2007. At the upcoming session the District will be pursuing appropriations for the Myakka River Watershed Initiative, Tampa Bay Restoration, West-Central Florida Water Restoration Action Plan, and Tampa Bay Water Configuration II.

The following issues are expected to be discussed at the upcoming State Legislation Session: land acquisition and management, local sources first, springs protection, sunset review, confirmation, and wetlands permitting. Community and Legislative Affairs (CLA) staff have been developing a draft legislative package for 2007-2008, including the District's proposed appropriations requests.

The legislative initiatives include a repackaged proposal titled the West-Central Florida Water Restoration Action Plan (WRAP), which is comprised of several ongoing initiatives within the Southern Water Use Caution Area. The WRAP is designed to ensure adequate funding to implement the goals of the SWUCA Recovery Strategy, and all of the projects included in the WRAP are focused on water resource protection and sustainability. More than \$36 million has been invested by the District and our project partners towards the WRAP, however, the total cost of the projects included in the WRAP is approximately \$1.6 billion. Of these costs, it is anticipated that approximately one-third will need to be derived from state or federal sources over the next 12-year course of this plan. The components of the WRAP include the Central West Coast Surface Water Enhancement Initiative, Facilitating Agriculture Resource Management Systems (FARMS), the Ridge Lakes Restoration Initiative, and the Upper Peace River Watershed Restoration Initiative.

Mr. Rathke said the District is monitoring progress with the potential bill to abolish the Peace Creek Drainage District. The Peace Creek Drainage District is in Polk County, however, they have not been collecting taxes or performing any maintenance and, in addition, the property records are unclear.

This item was presented for the Committee's information, and no action was required. (CD 1/Track 15 - 00:00/21:02)

86. **Fiscal Year 2009 Strategic Plan Update**

This item was deleted from consideration.

Submit & File Reports – None

Routine Reports

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

87. **Significant Activities Report**

Ms. Kavouras called Board members' attention to the Speaker's Bureau report that has been added to the Significant Activities Report. The Speaker's Bureau section is planned to be expanded in the future and reported separately.

88. **Comprehensive Plan Amendment and Related Reviews Report**

89. **Review of Developments of Regional Impact**

General Counsel's Report

Discussion Items

90. **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.

91. **Litigation Summary and Report**

92. **Rulemaking Update**

Mr. Bilenky updated the Governing Board members on the latest decision from the Circuit Court on the proposals for the Super Homestead Exemption as it relates to whether or not the Legislature could limit the counties on their ability to assess millage rates. He stated

that the constitutional amendment was rejected by the Court but the Court upheld the Legislature's ability to limit the counties in the millage assessments.

The Weeki Wachee case has been recommended for mediation by a new judge, scheduling is forthcoming. Meanwhile, the Florida Department of Environmental Protection (DEP) has indicated an interest in managing Weeki Wachee as a state park. In light of this information, Mr. Bilenky is recommending that DEP attend the mediation session as well so a comprehensive resolution may be obtained. (CD 1/Track 16 - 00:00/06:32)

Reports

93. Environmental Advisory Committee Liaison Report

Ms. Kavouras reported that the Environmental Advisory Committee met on September 12, 2007. Mr. Pressman is the Board's liaison; however, he was unable to attend. Ms. Kavouras said the members heard reports on a number of topics and that the meeting was well attended. Some of those topics included: future water restrictions, Northern District Strategies, rate structures, water quality issues and groundwater pumping, and an update regarding the Central Florida Coordination Area. Membership in all five Advisory Committees has been expanded with a more equal distribution of representation. (CD 1/Track 17 – 00:00/06:30)

94. Executive Director's Report

Mr. Moore reported on the following topics: the Tax Reform Commission's invitation to the Water Management District's input into reformation as it relates to water, the movement of water out of Marion County to the east, regional water supply planning, WaterReuse Foundation, and seawater desalination. (CD 1/Track 18 – 00:00/11:58)

95. Chair's Report

Chair Whitehead said the Joint Governing Board and Basin Boards meeting was very successful and well attended. Another meeting is targeted for February 2008.

The Executive Directors and Chairs of the five Water Management Districts met on September 21, 2007. DEP Secretary Sole placed emphasis on the drought and expressed his concern moving forward. Discussion was heard about the Water Management Districts working more closely with the Department of Agriculture regarding drought tolerant crops. A presentation regarding e-permitting was viewed by the group and an open discussion was held regarding arsenic levels associated with ASR storage and potential remedies. (CD 1/Track 18 – 11:58/22:11)

a. Performance Evaluations of the Executive Director and Inspector General – Process Overview

Ms. Elaine M. Kuligofski, Director, Human Resources and Risk Management Department, presented an overview of the Governing Board performance appraisal process as described in Board Policy 710-2.

Staff recommended adoption of the proposed 2007 schedule for development, evaluation and adoption of performance appraisals for the Executive Director and Inspector General. Following consideration, **Ms. Closshey moved, seconded by Mr. Combee, to adopt the proposed 2007 schedule. Motion carried unanimously.** (CD 1/Track 19 - 02:49/04:50)

Staff recommended selecting a person to assist the Governing Board with development of the 2007 performance appraisals for the Executive Director and Inspector General. Following consideration, **Mr. Combee moved, seconded by Ms. McCree, to appoint Ms. Kuligofski the person to assist with the development**

of the aforementioned performance appraisals. Motion carried unanimously.
(CD 1/Track 19 - 00:00/02:49)

b. **Other** – None

Public Input

No requests to address the Board were submitted.

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

The meeting was adjourned at 4:40 p.m.

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.