

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

SEPTEMBER 29, 2009

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 1:30 p.m. on September 29, 2009, at the District's Tampa Service Office. The following persons were present:

Board Members Present

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

Staff Members Present

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

Board's Recording Secretaries

LuAnne Stout, Administrative Coordinator
Tahla Paige, Senior Administrative Assistant

Board Members Absent – None

A list of others present who signed the attendance roster is filed in the permanent files of the District. This meeting was broadcast to the District service offices for viewing only. Approved minutes from previous meetings can be found on the District's Web site (www.WaterMatters.org).

Public Hearing

1. Call to Order

Chair Pressman called the meeting to order and opened the public hearing. Mr. Gramling noted a quorum was present.

2. Pledge of Allegiance and Invocation

Chair Pressman led the Pledge of Allegiance to the Flag of the United States of America. Mr. Bilenky offered the invocation.

Public Hearing

Chair Pressman introduced each member of the Governing Board. He noted that the Board's meeting was recorded for broadcast on government access channels. Public input was only taken during the meeting onsite.

Chair Pressman 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 Pressman stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute limit may be granted by the Chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson. (CD 1/Track 1 – 00:00/05:10)

3. **Additions/Deletions to Agenda**

According to Section 120.525(2), Florida Statutes, additions or deletions to the published agenda will only be made for "good cause" as determined by the "person designated to preside." Mr. Moore noted the following items were deleted from the agenda after publication.

Consent Agenda – General Counsel's Report

*The following items are **deleted** from consideration:*

- 21. Consent Order – Surface Water Activity - John S. Rudniansyn, Trustee – Marion County
- 22. Initiation of Litigation – Surface Water Activity - Wayne Evans – Hillsborough County

Resource Management Committee

The following item was deleted from consideration:

- 40. Lake Hancock Outfall Treatment Project

Chair Pressman noted that the deletions to the agenda were accepted.

4. **Employee Recognition**

Mr. Moore made presentations to the Board for all employees who have achieved milestones of 20 years or greater and those retiring from the District. He specially acknowledged and commended the contributions of these individuals. The following individuals chose to be recognized before the Board:

MILESTONE	EMPLOYEE NAME	TITLE	DEPARTMENT
Retirement	Len Bartos	Environmental Manager	Brooksville Regulation
20 Years	Chuck Gausche	Enterprise Architecture Manager	Information Resources

Mr. Moore welcomed Mr. Al Gagne to the District's management team. Mr. Gagne joined the District on September 14, 2009, as the Environmental Manager in the Brooksville Regulation Department. Mr. Gagne replaces Mr. Bartos who is retiring.

Mr. Moore congratulated Mr. Bartos on his retirement and presented him with a plaque noting his dates of service. Mr. Bartos started at the District in the chemistry lab and worked in the aquatic plant management program before moving to the Brooksville Regulation Department. Mr. Moore thanked Mr. Bartos for 35 years of great service. Mr. Bartos said he moved to Florida to work for the District and has never regretted that move. He said he is thankful for the opportunities he has had at the District. (CD 1/Track 1 – 05:10/12:34)

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

5. **Public Input for Issues Not Listed on the Published Agenda** – None

Consent Agenda

Items 21 and 22 were deleted from consideration.

Regulation Committee

6. **Governing Board Concurrence with Executive Director's Issuance of Third Modification to Executive Director Order No. SWF 08-024 Regarding Use by Tampa Bay Water of the Alafia River Project**
Staff recommended concurrence with issuance of the Third Modification to Executive Director Order SWF 08-024, for diversion from the Alafia River to be used in Tampa Bay Water's regional surface water treatment plant.
7. **Approve Rulemaking to Adopt and Incorporate by Reference Revised Water Use Permit Application – Public Supply Supplemental Form and New Small General Water Use Permit Application Public Supply Attachment Form**
Staff recommended to approve proposed amendments to Rules 40D-1.659, 40D-2.091, and 40D-2.101, F.A.C., to adopt and incorporate by reference a revised Water Use Permit Application Supplemental Form – Public Supply and a new Small General Water Use Permit – Public Supply Attachment form and to repeal the Southern Water Use Caution Area Public Supply Supplemental Form.
8. **Approve Well Construction Permitting Agreement Between SWFWMD and Marion County Health Department and Approve Rulemaking to Incorporate Agreement by Reference in Rule 40D-1.002, Florida Administrative Code (F.A.C.)**
Staff recommended to approve the Well Construction Permitting Agreement Between SWFWMD and Marion County Health Department and Authorize Initiation and Approval of Rulemaking to Incorporate the Agreement by Reference in Rule 40D-1.002, F.A.C.
9. **Initiate and Approve Rulemaking to Repeal 40D-24, Xeriscape Incentive Program, F.A.C.**
Staff recommended to authorize the initiation and approval of rulemaking to repeal Chapter 40D-24, F.A.C.
10. **Board Encumbrance – Florida Department of Transportation Mitigation**
Staff recommended to authorize the encumbrance of \$1,235,306 of FY2009 budgeted funds in the FDOT Mitigation Fund to be used in FY2010 for designated FDOT Mitigation projects.

Resource Management Committee

11. **Appraisals, Purchase/Sale Agreements and Resolution Requesting Funds – Annatteliga Hammock Project, SWF Parcel Nos. 15-228-1314, 1325, 1326, and 1327**
Staff recommended to (1) accept the appraisals; (2) approve the purchase/sale agreements; (3) approve the resolution requesting funds; and (4) designate SWF Parcel Nos. 15-228-1314, 1325, 1326 and 1327 as having been acquired for conservation purposes.
12. **Appraisals and Purchase/Sale Agreement – Lake Hancock Project, SWF Parcel No. 20-503-141P**
Staff recommended to (1) accept the appraisals; and (2) approve the Purchase/Sale Agreement.
13. **Authorize Submission of the Preliminary Flood Insurance Rate Maps for the Chassahowitzka and McKethan Watersheds to the Federal Emergency Management Agency (FEMA)**
Staff recommended to authorize staff to submit the preliminary FIRM panels for the Chassahowitzka and McKethan watersheds in Hernando County to FEMA.
14. **Pop Stansell Stormwater Treatment and Habitat Restoration**
Staff recommended to approve the First Amendment to the Cooperative Funding Agreement with Pinellas County for \$730,360, with the Pinellas-Anclote River Basin Board's share not to exceed \$285,189; and authorize the Executive Director to execute the agreement.
15. **Board Encumbrance – Lake Hancock Outfall Structure P-11**
Staff recommended to approve the encumbrance of \$2,500,000, without a contract, to be used in FY2010 for the construction of the new Lake Hancock Outfall Structure.

Finance & Administration Committee

16. **Board Travel**
No travel was requested.
17. **Budget Transfer Report**
Staff recommended to approve the Budget Transfer Report covering all budget transfers for August 2009.
18. **Information Resources Department Fiscal Year 2010 Sinking Fund Transfers**
 - a. **Planned Replacement of Personal Computers**
Staff recommended to approve transfer of FY2010 funds from the Computer Renewal and Replacement Sinking Fund account to the FY2010 IRD operational accounts for execution of the planned supplemental purchase of replacement personal computers, software and peripherals at a cost not to exceed \$85,000, contingent on final Board approval of the FY2010 Annual Service Budget.
 - b. **Planned Upgrade and Expansion of Network Servers**
Staff recommended to approve transfer of FY2010 funds from the Computer Renewal and Replacement Sinking Fund account to IRD operational accounts for the planned FY2010 purchase of network upgrades and expansion equipment from the State of Florida Contract at a cost not to exceed \$225,000, contingent on final Board approval of the FY2010 Annual Service Budget.
 - c. **Voice Over Internet Protocol Prototype**
Staff recommended to approve transfer of FY2010 funds from the Computer Renewal and Replacement Sinking Fund account to the IRD operational accounts for execution of the planned Voice Over Internet Protocol prototype project at a cost not to exceed \$200,000, contingent on final Board approval of the FY2010 Annual Service Budget.

General Counsel's Report

19. **Report to the Legislature in Compliance with Section 120.74, Florida Statutes**
Staff recommended to approve the Report by the Southwest Florida Water Management District to the President of the Senate, Speaker of the House of Representatives and Joint Administrative Procedures Committee.
20. **Interagency Agreement between SWFWMD and SJRWMD for Designation of Regulatory Responsibility - City of Ocala – Marion County**
Staff recommended to approve the Interagency Agreement between the Southwest Florida Water Management District and the St. Johns River Water Management District for Designation of Regulatory Responsibility for the SW 42nd Street road improvement project.
21. **Consent Order – Surface Water Activity - John S. Rudnianyn, Trustee – Marion County** – This item was deleted from consideration.
22. **Initiation of Litigation – Surface Water Activity - Wayne Evans – Hillsborough County** – This item was deleted from consideration.
23. **Initiation of Litigation – Well Construction - License No. 9247 - Waylon Howard, Jr. – Hillsborough County**
Staff recommended to authorize the initiation of litigation against Mr. Howard to take disciplinary action against his license, recover an administrative fine/civil penalty, and recover District enforcement costs, court costs and attorney's fees.

Executive Director's Report

24. **Approve August 25, 2009 Governing Board Meeting Minutes**
Staff recommended approval of the minutes as presented.
25. **Approve Resolution 09-22, Commending Patricia M. Glass for Her Service as a Member of the Southwest Florida Water Management District Governing Board**
Staff recommended to approve Resolution No. 09-22, commending Patricia M. Glass for her service.

Following consideration, Ms. Parks moved, seconded by Ms. Rovira-Forino, to approve Consent Agenda Items 6 through 20, 23, 24 and 25. Motion carried unanimously. (CD 1/Track 1 – 12:34/12:56)

Chair Pressman relinquished the gavel to Regulation Committee Chair Senft.

Regulation Committee

Discussion Items

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

27. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, provided information on the general state of the District's hydrologic conditions, by comparing rainfall, surface water, and groundwater levels for the current month to comparable data from the historical record. Rainfall totals for August, the third month of the four-month annual wet season, were less than expected, with the first three weeks being particularly dry. Rainfall during the month was scattered, regionally variable, and associated with several dissipating tropical waves interacting with convective (afternoon/evening) rain showers and a frontal boundary. District-wide, the provisional 12-month rainfall deficit increased for the second month in a row, and is currently about 9.0 inches. The 24-month and 36-month cumulative rainfall deficits are approximately 8.9 and 20.5 inches, respectively. In response to Ms. Parks' question, Mr. Kinsman said the National Weather Service uses a 30-year normal for their rainfall totals and the District uses all available data from 1915. (CD 1/Track 1 – 12:56/Track 2 - 09:50)

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

28. **Consider Districtwide Modified Phase II Water Shortage Order No. 07-02**

Mr. Owen said that, pursuant to Water Shortage Order No. SWF 07-02, Modified Phase II water shortage restrictions are currently in effect for all water uses in eight counties (Citrus, Hardee, Highlands, Hernando, Lake, Levy, Polk and Sumter) and any water use not addressed in more stringent Phase III orders in seven other counties (Charlotte, DeSoto, Hillsborough, Manatee, Pasco, Pinellas and Sarasota). Water Shortage Order No. SWF 07-02 was issued in January 2007 and is currently scheduled to expire on September 30, 2009 unless the Governing Board takes further action.

Mr. Owen said staff has been monitoring hydrologic conditions and other pertinent factors in accordance with the District's Water Shortage Plan (Rule 40D-21, F.A.C.) to develop a recommendation for Board action regarding Water Shortage Order No. SWF 07-02. He noted there may be a need for a temporary bridge order to address any gap in time between expiration of the Order No. SWF 07-02 and implementation of recent amendments to Rule 40D-22 (Year-Round Water Conservation Measures, including statewide consistency changes to the normally allowable lawn watering schedule).

Following a summary of current conditions, Mr. Owen said staff recommends to extend the Order through February 28, 2010, and remove restrictions on small fountains and others with little water use. Following consideration, **Ms. Rovira-Forino moved, seconded by Ms. Parks, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 3 – 00:00/03:46)

29. **Consider Modified Phase III Water Shortage Order No. 08-044 for Hillsborough, Pasco and Pinellas Counties**

Mr. Owen said that, pursuant to Water Shortage Order No. SWF 08-044, Modified Phase III water shortage restrictions are currently in effect for lawn irrigation and other select water uses in Hillsborough, Pasco and Pinellas counties. This Order was issued on October 28, 2008 and is currently scheduled to expire on September 30, 2009, unless the Governing Board takes further action.

Mr. Owen said staff is monitoring hydrologic conditions and other pertinent factors in accordance with the District's Water Shortage Plan (Rule 40D-21, F.A.C.) to develop a recommendation for Board action regarding Water Shortage Order No. SWF 08-044. At

such time that any water use currently subject to this Order is released from it, the water use would become subject to applicable provisions of the Modified Phase II water shortage restrictions ordered by Water Shortage Order No. SWF 07-02, if it is still in effect.

Following a summary of current conditions and factors, including system status information reported by key water utilities, Mr. Owen said staff recommends to extend the Order through December 31, 2009. In response to Mr. Tharp's questions, Mr. Owen said the District's process allows Tampa Bay Water (TBW) the opportunity to agree to the consent order so the calculation of the fine is set. He said TBW staff will take the proposed consent order to its Board of Directors in October. Mr. Ken Herd, Water Supply Program Director, Resource Projects Department, provided a status of the desalination plant, noting that last week the plant pumped 25 million gallons per day (mgd) but it dropped over the weekend. In response to Mr. Gramling's question, Mr. Herd said TBW has until the end of 2010 to achieve four consecutive months of pumping an average of 25 mgd.

Following consideration, **Mr. Gramling moved, seconded by Ms. Rovira-Forino, to approve the staff recommendation to extend the Order through December 31, 2009. Motion carried unanimously.** (CD 1/Track 4 – 00:00/05:45)

30. **Consider Modified Phase III Water Shortage Order No. 09-009 for Charlotte, DeSoto, Manatee and Sarasota Counties**

Mr. Owen said that, pursuant to Water Shortage Order No. SWF 09-009, Modified Phase III water shortage restrictions are currently in effect for lawn irrigation and other select water uses in Charlotte, DeSoto, Manatee, and Sarasota counties. This Order was issued on February 24, 2009 and is currently scheduled to expire on September 30, 2009, unless the Governing Board takes further action.

Mr. Owen said staff is monitoring hydrologic conditions and other pertinent factors in accordance with the District's Water Shortage Plan (Rule 40D-21, F.A.C.) to develop a recommendation for Board action regarding Water Shortage Order No. SWF 09-009. At such time that any water use currently subject to this Order is released from it, the water use would become subject to applicable provisions of the Modified Phase II water shortage restrictions ordered by Water Shortage Order No. SWF 07-02, if it is still in effect.

Following a summary of current conditions and factors, including system status information reported by key water utilities, Mr. Owen said staff recommends to extend the Order through October 31, 2010, and continue monitoring and reconsider next month. This recommendation is consistent with a recommendation voted and passed by the Environmental Advisory Committee. Following consideration, **Ms. Rovira-Forino moved, seconded by Mr. Oakley, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 4 – 05:45/Track 5 - 01:30)

31. **Authorize Initiation of Rulemaking to Amend 40D-21, Water Shortage Plan, F.A.C., to Incorporate Refinements Based on Experience with Recent Water Shortages**

Ms. Alba Más, Director, Tampa Regulation Department, noted that each water management district is required, by state law, to have and implement a Water Shortage Plan which guides its responses to drought and other water shortage events. The District's Water Shortage Plan (Rule 40D-21, F.A.C.) was first developed in 1984. Its only major update occurred in 2006 to reflect "lessons learned" from the 1999-2001 drought. This update was part of a multi-year, multi-rule revision process that also involved rewriting the District's Year-Round Water Conservation Measures (Rule 40D-22, F.A.C.). The Year-Round Rule includes a twice-per-week limit on lawn watering and other "baseline" measures upon which more stringent water shortage restrictions can be temporarily added, in accordance with the Water Shortage Plan.

Examples of possible amendments to the Water Shortage Plan include amendments to the "drought indicators" and the Phase III and Phase IV restrictions that were implemented

for the first time in 2008 and 2009. Now that the District has gained experience with these and other provisions, and refinements that were needed to make them more effective, it would be appropriate to incorporate such additional "lessons learned" into the rule for future use.

Staff proposes use of a stakeholder focus group to assist in developing and reviewing potential rule refinements. It is envisioned the focus group will include representatives from the District's advisory committees, as well as other groups that have provided input during the recent drought, such as representatives of the air conditioning industry and pressure washing businesses. If initiation of rulemaking is approved, the goal would be to prepare amendments for the Board's consideration by March 2010 with interim status reports provided as appropriate.

Staff recommended to approve initiation of rulemaking for the purpose of amending Rule 40D-21, F.A.C., to incorporate refinements based on the District's experience with recent water shortage events. Following consideration, **Mr. Gramling moved, seconded by Ms. Closshey, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 6 – 00:00/04:45)

32. **Initiation and Approval of Rulemaking to Extend the Duration of Formal Determinations of Wetlands and Other Surface Waters**

Mr. Owen noted that, pursuant to subsection 373.421(2), F.S., a real property owner, an entity that has the power of eminent domain or any other person who has a legal or equitable interest in real property may petition the District for a formal determination for that property. A formal determination means the District will determine the locations on the property of the landward extent (boundaries) of wetlands and other surface waters.

In response to current economic conditions, recent legislation (Senate Bill 360) passed which extended by two years the duration of ERPs that would otherwise expire between September 1, 2008 and January 1, 2012. This legislation did not extend formal determinations of wetlands and other surface waters. Given the fact that a formal determination is generally a precursor to applying for an ERP, staff believes it would be consistent with efforts to facilitate economic recovery to extend formal determinations in a manner similar to how SB360 extended ERPs.

Proposed revisions to rule 40D-4.042, F.A.C., extend by two years those formal determinations that would otherwise expire between September 1, 2008 and January 1, 2012 provided physical conditions on the property have not changed so as to alter the boundaries of the wetlands and other surface waters during that period and provided the entity to whom the formal determination is issued notifies the District in writing of their intent to extend their formal determination under this provision prior to December 31, 2009. Mr. Owen noted staff has estimated 400 formal determinations have been issued by the District that expire in the time window and would be eligible for the time extension.

Staff recommended to approve the initiation of rulemaking to amend Rule 40D-4.042, F.A.C., regarding extending certain formal determinations of wetlands and other surface waters. Following consideration, **Ms. Closshey moved, seconded by Ms. Rovira-Forino, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 7 – 00:00/02:38)

33. **Approve Amendments to 40D-2.091, Documents Incorporated By Reference, F.A.C., and Part B, Basis of Review, of the Water Use Permit Information Manual, 40D-1.659, Forms and Instructions, 40D-2.021, Definitions, F.A.C., and 40D-2.321, Duration of Permits, F.A.C., to Enhance Water Conservation Provisions for Water Use Permits**

Mr. Bobby Lue, Director, Brooksville Regulation, said in April 2007 the Governing Board approved initiation of rulemaking to enhance the District's water conservation requirements in the water use permitting program. At the August 2009 Governing Board

meeting, staff presented a summary of the rule requirements as an information item and provided a complete copy of the rule revisions, allowing another opportunity for public comments to be provided to the Board. No public comments were provided at the August Board meeting, and no additional public comments have been subsequently received.

Mr. Lue reviewed the two changes may by staff since the August Board meeting. Ms. Rovira-Forino said she would like to encourage golf courses to be more conservative driven and use reclaimed water in all possible areas.

A copy of the final draft of the proposed rules and the new report forms incorporated by reference were included in the Board's meeting information. As required by Section 120.541, F.S., a Statement of Estimated Regulatory Cost for the proposed rules was developed and included for the Board's information.

Staff recommended to approve Amendments to 40D-2.091, Documents Incorporated by Reference, F.A.C., and Part B, Basis of Review, of the Water Use Permit Information Manual, 40D-1.659, Forms and Instructions, 40D-2.021, Definitions, F.A.C., and 40D-2.321, Duration of Permits, F.A.C., to Enhance Water Conservation Provisions for Water Use Permits. Following consideration, **Mr. Tharp moved, seconded by Ms. Rovira-Forino, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 8 – 00:00/08:20)

34. **Denials Referred to the Governing Board**

There were no requests for applications or petitions to be referred to the Governing Board for final action.

Submit & File Report

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

35. **Individual Permits Issued by District Staff**

Mr. Owen noted the report shows permits that have been issued by staff that previously were approved by the Board. He said the next workshop is October 6 at the Brooksville office and staff anticipates citizens from Yankeetown will attend regarding an environmental resource permit application which has been controversial. Additional information regarding the project is on the website for citizens to understand the District's position. He said this project also involves sovereign submerged lands which will go before the Governor and Cabinet for action in November.

Regarding development of the northern Tampa Bay recovery strategy rule revisions, Mr. Owen said staff will provide a status report in October or November and then recommend action. He said a draft rule has been made available to the public, and staff has been meeting with Tampa Bay Water and their member governments. He said staff has made substantive changes and therefore feel another public workshop is necessary. The workshop is scheduled for October 9, 10 a.m., at the Brooker Creek Preserve and all the parties who attended the first workshop are informed of this workshop. Staff is waiting to hear from Tampa Bay Water if there are additional concerns. Mr. Owen said the focus of this rule is on continuation of the consolidated permit as a major component of the northern Tampa Bay recovery strategy. (CD 1/Track 9 – 00:00/04:27)

Routine Reports

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

36. **Southern Water Use Caution Area Quantities**

37. **Overpumpage Report**

- In response to Ms. Rovira-Forino's question, Mr. Owen said there are five categories of where an overpumpage permit may be under the District's review. The second table shows permits under investigation to decide if it is in true overpumpage. Staff checks to see if the meter is recording properly or if quantities are reported accurately. Another common occurrence is agriculture or other form of irrigation permitted quantity and staff

investigates the specific hydrologic conditions that existed during that time. If the quantities that the permitting model shows are necessary for supplemental irrigation given those specific hydrologic conditions support the quantities actually used, the permit is not considered in overpumpage. There can be a variety of reasons why any individual permit after several months of investigation is determined to no longer deemed in overpumpage. It may well be a one-time occurrence and pumpage comes back into compliance in a timely fashion.

- Ms. Rovira-Forino noted that two of the permits are golf courses. She said a one-time occurrence for Mad Hatter Utilities for one standby withdrawal has been issued on a continual basis. Mr. Owen said it means that the permit was an existing water use permit with more than one withdrawal point and one of those wells was referred to as a standby well. When one of the normal production wells could not be used, then the standby well was the source. The permittee had some operational constraints that caused the use of the standby well on a continuous basis. He said the permittee has used more than normally authorized for an individual well but has not used more than the permitted quantity. Mr. Owen said it is not an overpumpage for the permit, but the permittee needs to modify the permit to prove it can use those quantities from the standby well or shift back to a production well. In the future, Mr. Owen said this type of situation will not be included on the overpumpage report.

38. **Resource Regulation Significant Initiatives**
(CD 1/Track 9 – 04:27/08:24)

Regulation Committee Chair Senft relinquished the gavel to Resource Management Committee Chair Joerger.

Resource Management Committee

Item 40 was deleted from consideration.

Discussion Items

39. **Consent Item(s) Moved for Discussion** – None
40. **Lake Hancock Outfall Treatment Project** – This item was deleted from consideration.
41. **Minimum Flows and Levels Priority List and Schedule Update**
Dr. Marty Kelly, Minimum Flows and Levels Program Director, Resource Projects Department, noted that, pursuant to Section 373.036(7), Florida Statutes (F.S.), the District is required to annually update its priority list and schedule for the establishment of minimum flows and levels (MFLs), submit it to the Florida Department of Environmental Protection (FDEP) for review and approval, and include the approved list in the District's consolidated annual report. The Board members received the draft "Proposed 2010 Minimum Flows and Levels Priority List and Schedule" in their meeting information.

Dr. Kelly said, pending completion of the public input process, a few additions are proposed to the list. It is proposed that Cypress Creek, a tributary to the Hillsborough River, be placed on the priority list for MFLs development in 2014. It is proposed that Lakes Carroll and Hooker in Hillsborough County and Lake Lowery in Polk County be placed on the list for adoption in 2011. In addition, seven lakes (Amoret, Aurora, Bonnet, Easy, Effie, Josephine, and Little Aurora) on the District's stressed lakes list in Polk County are proposed for establishment in 2012. Although only required to project out for three years, the District added specific water bodies for a fourth and fifth year beginning with the 2005 Priority List.

Four public workshops have been scheduled for early October to receive public comment and input on the proposed Priority List. Staff will distribute the draft "Proposed 2010 Minimum Flows and Levels Priority List and Schedule" for purposes of receiving public

input prior to returning to the Governing Board in October for approval of the list that will be submitted to FDEP by November 15, 2009, as required by statute.

In response to Mr. Tharp's question regarding the 2010 report, Dr. Kelly said certain water bodies can easily be determined to meet MFLs. Ms. Parks said one of her favorite places is Rainbow Springs which has been postponed. Dr. Kelly said it was originally scheduled for 2008, but the St. Johns River Water Management District requested it be moved to 2009. He noted that Rainbow River and Silver River are both in Marion County but are split between two water management districts and therefore require coordination by the two staffs. He said there are two reasons for the delay: (1) staff has developed a model of the system that is not calibrated completely yet, and (2) the area has not received good rainfall so high flow information is not well defined. Mr. Moore directed Board members to the monthly routine report showing the status of water bodies. (CD 1/Track 10 – 00:00/17:12)

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

Submit & File Report – None

Routine Reports

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

42. **Florida Forever Funding**
43. **Minimum Flows and Levels**
44. **Structure Operations**
45. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
46. **Significant Water Supply and Resource Development Projects**
 - Mr. Wirth noted the District received a \$1 million grant from the U. S. Department of Agriculture under its agriculture water enhancement program that can be used for water conservation and quality improvement on agricultural working lands. This is a \$58 million federal program and the District received the only grant in Florida for the FARMS program.
 - Mr. Wirth said that, working closely with the agricultural community, staff developed a small pamphlet on reclaimed water. He said there have been concerns with water quality and how customers react to products treated with reclaimed water. The extensive amount of research is considerable about the safety of reclaimed water. Copies of the pamphlet have been provided to the advisory committee members and a number of agencies. Ms. Rovira-Forino said this is a great marketing tool to distribute to local officials. She noted that, at the last City of Tampa Council meeting, reclaimed water was a topic of discussion because of the lack of information and education available. (CD 1/Track 10 – 17:12/20:13)

Ms. Rovira-Forino moved, seconded by Mr. Oakley, to adjourn the Committee meeting. Resource Management Committee Chair Joerger relinquished the gavel to Outreach and Planning Committee Chair Tharp.

Outreach and Planning Committee

Discussion Items

47. **2011 – 2015 Strategic Plan Update**

Mr. Roy Mazur, Director, Planning Department, said the purpose of this item is to present the 2011–2015 Strategic Planning Program to the Governing Board and elicit any contributions or ideas prior to the October 2009 staff recommendation for approval. The mission of the Strategic Plan update is to provide the overarching strategic direction, from which all of our District strategies evolve: Superior Stewardship of Florida's Precious

Water Resources. With that responsibility, the deliverables of FY2011 update are to (1) implement the reporting of the Primary Success Indicators, (2) reconfigure the Strategic Plan to meet the statutory requirements allowing the Strategic Plan to replace the District Water Management Plan (DWMP), and (3) produce an updated Strategic Planning document

Mr. Mazur noted that, by replacing the annual DWMP update with the Strategic Plan, staff will annually save in excess of 200 staff hours, and the anticipated the staff time savings by replacing the five-year DWMP is in the thousands. One of the statutory requirements of replacing the DWMP is the compilation of an Annual Work Plan Report. This Annual Report will detail the progress of District programmatic efforts intended to achieve the Strategic Plan's goals and measures, as well as enlightening the connection between the Strategic Plan and the Budget process.

Mr. Mazur's presentation communicated the progress of the three deliverables and provided an overall perspective on the District's Strategic Planning program. A production draft of the Strategic Plan was provided to the Board members with the intent of seeking final review and comment from Board members over the ensuing two weeks. Staff will request Governing Board approval of the Strategic Plan document at the October Board meeting.

Mr. Tharp thanked Mr. Mazur for the presentation and said this is truly a living document, especially the idea of the scorecard which is a tremendous innovation and coordination with the Project Information Management System. Ms. Parks said the document looks great and asked about the website. Mr. Mazur said that, once it is approved, it will be posted to the web and one suggestion is to add links from the success indicators to the scorecard. Mr. Beswick said he appreciated Mr. Mazur's passion and enthusiasm for this effort. Mr. Mazur said it is great to be involved with a broad section of the organization. Ms. Whitehead said she is impressed with the integration of all the information. Ms. Rovira-Forino said she is glad to see education and knows it is a lot of work to embrace all that the District does in one document. Committee Chair Tharp said combining this with the DWMP will be a great time savings for staff. (CD 1/Track 11 – 00:00/14:20)

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

Submit & File Report – None

Routine Reports

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

48. **Comprehensive Plan Amendment and Related Reviews**

49. **Development of Regional Impact Reviews**

50. **Speakers Bureau**

51. **Significant Activities**

- Ms. Kavouras said three sirens have been installed at the Medard Reservoir. She said the Communications, Community & Legislative Affairs and Operations staffs have developed a public awareness campaign for residents living near the Reservoir. She said about 9,000 residents were sent notices about the monthly testing of the sirens. The media was alerted through press releases, and public meetings were held last week.
- Ms. Kavouras said Senate Bill (SB) 2080 eliminates the ability of homeowner associations (HOA) to restrict homeowners from installing Florida-friendly landscaping. Working with the Institute of Food and Agricultural Sciences, staff contacted about 3,000 HOA board members and invited them to public meetings to learn about SB 2080 provisions and provide education about Florida-friendly landscaping. Five workshops are scheduled for early October and more may be held.

- Ms. Kavouras said this is the District's second year of Florida Water StarSM Gold certification program and four homes have been certified. She said that eleven builders have signed on with the intent to build 216 homes. She said seven homes will be certified on November 5 in the Wimauma area and a media event is being planned.
- Ms. Kavouras said the "Get Outside" campaign is moving along and a thank you note from one of the event participants is being circulated among the Board members. She said an overview of the entire campaign will be presented at the October meeting. Following one television appearance by a Communications Department staff member, the District received 250 phone calls and almost 700 requests for the recreation guide. Committee Chair Tharp noted that Mr. Moore emailed a wonderful thank you email from a mother and her daughter about their camping experience.

Regarding the Medard Reservoir, Mr. Moore said the District is dewatering the Reservoir over the next 30 to 45 days to do repairs. He said there have been issues raised about harvesting the remaining fish, alligator population and swimming viability. He said fishermen are encouraged to catch as many fish as possible before the Reservoir is too low. He said the repairs will take about six months and should be completed by next summer. (CD 1/Track 11 – 14:20/22:22)

Outreach & Planning Committee Chair Tharp relinquished the gavel to Finance and Administration Committee Chair Parks.

Finance and Administration Committee

Discussion Items

52. **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.

53. **Fiscal Year 2010 Budget Update**

Committee Chair Parks said there are no changes to the tentative budget unanimously adopted on September 15. She noted that, prior to the first budget hearing, the District received the Governor's letter indicating his approval of the fiscal year 2010 tentative budget. In these declining economic times, the Governor recognized the difficult and substantial cost cutting measures that were necessary to balance the FY2010 budget, while at the same time remaining committed to providing cost-share assistance to regional and local water supply utilities. She said the final budget hearing is today at 5:01 p.m.

54. **Office of Inspector General – Chemistry Laboratory Managerial Audit**

Mr. Schiller said the audit showed that the lab provides 99 percent accuracy and analysis shows costs are lower than competitive market rates. He said it is outstanding for the lab to maintain an excellent level of quality which impacts the scientific studies.

Routine Reports

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

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

56. **Management Services Significant Activities**

Mr. Schiller reviewed the activities report, noting that the computer mainframe will be removed by February 2010 which is seven months early, internet streaming of Board meetings will begin next month, employee turnover is 5.5 percent, and Blue Cross Blue Shield has agreed to pay for wellness program screenings. He said Florida-friendly yard certification has been received at the Brooksville and Bartow offices, the Sarasota office received the highest certification level, and the Tampa office should be certified following replanting. (CD 1/Track 12 – 00:00/11:55)

Finance and Administration Committee Chair Parks relinquished the gavel to Chair Pressman.

General Counsel's Report

Discussion Items

57. Consent Item(s) Moved for Discussion – None

Mr. Bilenky said he has two items to update the Board. He said Mrs. Fussell of Winter Haven spoke to the Board about irrigation wells within city limits being banned which violates the District's exclusive authority to regulate consumptive use. He said staff reviewed every municipal ordinance in the District and found three—cities of Polk City, Dade City and San Antonio—which were similarly situated. He said staff spoke with FDEP which is in favor with the District proceeding forward to ask those municipalities to amend their ordinances. Staff worked with the ordinance language, and the community affairs program managers went before the city councils with the proposed language. Staff requested the ordinance change which still accomplishes the cities' goals to protect the municipal water supplies, and all three municipalities will vote in October to amend their ordinances. Resolution was reached through cooperative efforts by the District and cities. Although this does not achieve Ms. Fussell's goal to dig irrigation wells in the city limits, she was advised it is up to the municipalities to prohibit irrigation wells and there is nothing the District could do to stop it as long as it is done for the appropriate reasons.

Mr. Bilenky said staff has resolved a litigation matter that has been ongoing for many years. The Crowley Museum and Nature Center had filed an inverse condemnation suit against the tomato growers just north of Flatford Swamp. A number of years ago they amended the suit to include the District contending that the farmers' runoff was causing Flatford Swamp to flood and that water was further being carried downstream and flooding the Center. Over time, the Center has resolved its disputes with all of the farmers except one. With the last dispute resolved, the lawsuit has been dismissed against the District without adverse consequences to anyone.

Submit & File Reports – None

Routine Reports

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

58. Litigation Report

59. Rulemaking Update

(CD 1/Track 13 – 00:00/04:14)

Executive Director's Report

60. Executive Director's Report

- **United Water Fowlers Land Use and Restoration Issues** – The United Water Fowlers has worked with St. Johns River and South Florida Water Management Districts in restoring land for increased duck habitat. The Fowlers have a negative view about hunting in the west coast of Florida and have the opinion that District lands are not open. The next stakeholders meeting of groups who use District lands is scheduled for October 14 at the Green Swamp West Field Office in Dade City. Staff's goal is to ensure everyone is aware that District lands are open for compatible uses. The "Get Outside" campaign will apprise citizens of opportunities to use the lands managed by the District. Land use and management needs to be elevated as a District priority. Ms. Parks said it is wise for the District to be on the forefront with this issue. Mr. Gramling expressed his concern that the District does due diligence when choosing which stakeholders to invite that the majority of interested parties is represented. He said the purpose is to improve people's perception and that the land is being strategically used for those secondary purposes to the best ability of the District. Ms. Whitehead expressed her concern that the land is preserved for ecological purposes and areas utilized would be limited. Mr. Moore said there are opportunities to enjoy the District's public lands and the District needs to inform the public. Ms. Whitehead said she feels the average user wants to travel a short distance and give

their family the experience of “camping out.” Mr. Oakley and Ms. Closshey voiced their agreement. Ms. Rovira-Forino said it is a great opportunity from an education standpoint and for partnerships with groups like tourism and school systems. Mr. Beswick said he thinks the Florida Fish and Wildlife Commission (FWC) holds drawings for huntings and perhaps the District could integrate its information that interests hunters. Mr. Moore noted that the largest public lands hunted within the SWFWMD are District lands, and the FWC runs the hunts. Mr. Eric Sutton, Director, Land Resources Department, noted that the campout a couple of weeks ago was done in partnership with Pro Bass Shops. He said the District is the largest landowner in this 16-county region and over 50 percent of the land is hunted. In response to Mr. Beruff’s question, Mr. Moore said that includes all potential uses such as horsebacking riding, hiking, boating, canoeing and camping. Mr. Joerger said Sarasota County is holding a contest called the SRQ Eco Seeker program for people who use the resources to tell about their weekend experience and then use that content on the visitor’s bureau website to give other people ideas of activities that are available. He noted about 83 percent of Florida’s tourism is environmentally based.

- Formation of Eastern Gulf Research Alliance – Mr. Moore met with several professors at the University of South Florida which is leading the formation of the Eastern Gulf Research Alliance and requested the District participate. He said a technical staff member will attend the first meeting.
- City of Tampa's Proposed Referendum on Indirect Use of Reclaimed Water – Mr. Moore said he spoke at the Tiger Bay Club with Councilman Miranda who is interested in putting on the ballot a referendum on indirect use of reclaimed water in Tampa. Ms. Rovira-Forino said the City postponed the decision and requested a presentation from the District at the February 24 meeting. Mr. Moore said this type project is feasible. Tampa Bay Water, through the Governing and Basin Boards, will study two additional components of that project to decide whether to put it through a rapid infiltration basin in Pasco County or do recharge in southern Hillsborough County. This project will probably become a cooperative funding request.
- Intergovernmental Panel for Climate Change – Mr. Moore said maps are available about how rainfall should change around the globe. The projections are for more droughts and floods but rainfall will stay about the same in Florida. One major issue is the reduction of snow packs in the western part of the United States.
- My Region Water Steering Committee Meeting on September 21 – Mr. Moore attended this meeting to discuss water supply issues in central Florida. The group is planning to hold individual meetings in each of the seven counties.
- Developing Legislative Issues – Mr. Moore said that the main issues are decreased funding and it appears a bill to reverse the delegation of permits to the executive directors and return it to the governing boards will be submitted. Mr. Tharp noted that there have been several articles in the Orlando Sentinel relative to this issue.
- American Ground Water Trust Aquifer Storage and Recovery Workshop on September 28 – Mr. Moore said the District co-sponsored this workshop in Orlando. The leading means to resolve the arsenic issue is to create a buffer zone or condition the aquifer over time.
- National Research Council Reclaimed Water Workshop on October 12 and 13 – Mr. Moore noted the Council will hold its meeting in Florida.
- GE Leadership Summit on November 12 and 13 – Mr. Moore said about 50 experts will discuss reclaimed water and what needs to be done through technology, regulation and the economy to increase acceptability.

(CD 1/Track 14 – 00:00/29:40)

Committee/Liaison Reports

61. Environmental Advisory Committee

Ms. Rovira-Forino said the Committee met on September 14, 2009 at the Tampa Service Office. Items discussed included Hydrologic Conditions/Drought Update and Water Shortage Restrictions, Rulemaking Update, Minimum Flows and Levels Update, Springs Protection Ordinances, Cone Ranch Update, Net Improvement Policy for Stormwater, and

Low Impact Development. The next meeting is on December 7, 2009 at 1:00 p.m. in the Tampa Service Office. (CD 1/Track 14 – 29:40/31:21)

62. **Green Industry Advisory Committee**

Mr. Tharp said the Committee met on August 27, 2009, at the Tampa Service Office. Items discussed included Tampa Bay Water Infrastructure Overview, City of Tampa Reclaimed Water Master Plan, Rulemaking Update, Hydrologic Conditions/Drought Update and Water Shortage Restrictions, Overview of Senate Bills 2080 and 494 Relative to the Green Industry, and Plant Establishment Study. The next meeting is a joint meeting with the Agricultural Advisory Committee on November 5, 2009 at 9:00 a.m. in the Tampa Service Office. (CD 1/Track 15 – 00:00/02:50)

Chair's Report

63. **Chair's Report**

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

Ms. Elaine Kuligofski, Director, Human Resources & Risk Management Department, presented an overview of the Governing Board performance appraisal process as described in Board Policy 710-2 which governs the performance evaluation process for the Executive Director and Inspector General.

The Board selects a person (typically the District's Human Resources Director) to receive the numerical ratings, narrative comments and recommendations from each of the Governing Board members. This selected person then combines the individual Performance Evaluation Forms into a single, draft performance appraisal for each employee, following the procedures described in Board Policy No. 710-2.

It is anticipated that the final draft appraisals will be reviewed and approved by the Governing Board at its December 15, 2009 meeting. This process provides an opportunity for the full Governing Board to provide formally adopted performance feedback for its two direct reports (Executive Director and Inspector General), to recommend areas for future development, and to set goals and objectives for the upcoming year.

Following consideration, **Mr. Tharp moved, seconded by Ms. Parks, to approve the staff recommendation to (1) adopt the proposed 2009 schedule for development, evaluation and adoption of performance appraisals for the Executive Director and Inspector General; and (2) select Ms. Kuligofski as the person to assist the Governing Board with development of the 2009 performance appraisals for the Executive Director and Inspector General. Motion carried unanimously.** (CD 1/Track 15 – 02:50/06:20)

b. **Approve Policy 110-8, Governing Board Member Duties and Responsibilities**

Ms. Kavouras said that, last month, the draft policy was provided to the Board for their comments. She noted that no changes were made and staff recommends to approve Policy 110-8, Governing Board Member Duties and Responsibilities, as presented in the exhibit. Following consideration, **Mr. Gramling moved, seconded by Ms. Rovira-Forino, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 15 – 06:20/07:00)

c. **Other** – Chair Pressman attended the Tampa Bay Regional Planning Council meeting and major items of discussion were the high-speed railway (Florida Department of Transportation) and oil drilling off the coast (Agency on Bay Management).

Mr. Tharp reiterated Mr. Mazur's request that the Board provide its comments on the Strategic Plan by October 10. Board members decided who would be staying for the budget hearing to ensure a quorum was present. Ms. Whitehead noted she attended the first meeting of the Friends of Weeki Wachee and will keep the Board apprised of issues. Ms. Rovira-Forino commended the artwork adorning the Board Room walls.

There being no further business to come before the Board, **Mr. Gramling moved, seconded by Ms. Rovira-Forino, to adjourn the meeting. Motion carried unanimously.** (CD 1/Track 15 – 07:00/11:30)

The meeting was adjourned at 4:10 p.m.