

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

JANUARY 25, 2011

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:03 a.m. on January 25, 2011, at the District's Tampa Service Office. The following persons were present:

Board Members Present

Ronald E. Oakley, Chair
Hugh Gramling, Vice Chair
H. Paul Senft, Secretary
Douglas B. Tharp, Treasurer
Jeffrey M. Adams, Member
Carlos Beruff, Member
Bryan K. Beswick, Member
(participated via teleconference)
Jennifer E. Closshey, Member
Neil Combee, Member
Albert G. Joerger, Member
Todd Pressman, Member
Judith C. Whitehead, Member

Staff Members

David L. Moore, Executive Director
William S. Bilenky, General Counsel
Lou Kavouras, Deputy Executive Director
Richard S. Owen, Deputy Executive Director
Bruce C. Wirth, Deputy Executive Director
Kurt P. Fritsch, Acting Deputy Executive Director

Board's Administrative Support

Tahla Paige, Senior Administrative Assistant

Board Member(s) Absent – None

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

Public Hearing

1. Call to Order

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

2. Pledge of Allegiance and Invocation

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

Public Hearing

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

Chair Oakley 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 agenda items only during today's meeting. If the speaker wishes to address the Board on an issue not on today's agenda, a speaker's card

may be submitted for comment during "Public Input." Chair Oakley stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute limit may be granted by the Chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson.

3. **Additions/Deletions to Agenda**

Mr. Moore noted there were no additions or deletions to today's agenda. (Track 1 – 00:00/01:50)

4. **Employee Recognition**

Mr. Moore recognized staff members who have achieved milestones of 20 years or greater.

MILESTONE	EMPLOYEE NAME	TITLE	DEPARTMENT	OFFICE LOCATION
25 Years	Colleen Endres	Data Architect	Information Resources	Tampa
20 Years	Tom Albrecht	Business Analyst	Information Resources	Tampa
	Carol Walkinshaw	Senior Administrative Assistant	Tampa Regulation	Tampa

Mr. Moore welcomed one new management employee recently hired: Mr. Mark Hoover as the Applications Systems Manager for the Information Services Department in the Tampa Service Office.

Mr. Ross Morton, Director, Sarasota Regulation Department, recognized Mr. David Sua, Sarasota Surface Water Regulation Manager, who received a \$595 Meritorious Service Award in appreciation for his cost-saving Environmental Resource Permit (ERP) Calculator program. In August 2008, Mr. Sua submitted a Meritorious Service Award for a computer program he developed using his personal time. The ERP calculator program will allow users to enter their own data online; compute the type of ERP application that is specific to their project; give them direct internet access to the applicable Florida Administrative Codes for actual fees scheduled and relevant rule language; assist them in determining the appropriate form of proprietary authorization for activities proposed on sovereign submerged lands, as well as the fee schedule for proprietary authorizations and provide all users direct access to the ERP application forms to fill out at the time of application; and eliminate overpayment of permits. Mr. Sua's program was put into the ERP online system in October 2010. Mr. Combee expressed his appreciation for Mr. Sua's expertise. (Track 1 – 01:50/09:50)

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

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

Chair Oakley noted there were no requests to speak at this time. (Track 1 – 09:50/10:25)

Consent Agenda

Regulation Committee

6. **Individual Water Use Permits Referred to the Governing Board**

- a. **WUP No. 20000419.010 - City of Inverness – Citrus County**
- b. **WUP No. 20011086.003 - Half Moon Lake – Hillsborough County**
- c. **WUP No. 20011425.003 - Round Lake – Hillsborough County**
- d. **WUP No. 20010096.006 - Twenty Twenty Groves – Polk County**

Staff recommended to approve these proposed permits.

Resource Management Committee

7. **Approve Proposed Rule Language 40D-9.290(2) and 40D-9.320, Florida Administrative Code (F.A.C.), Other Uses; Use of Alcoholic Beverages on District Lands Prohibited, and Conflicting Rules**
Staff recommended to approve amended language to 40D-9.290(2), F.A.C., Use of Alcoholic Beverages on District Lands Prohibited, and 40D-9.320, F.A.C., Conflicting Rules; and authorize staff to complete rulemaking.
8. **Five-Year Water Resource Development Work Program**
Staff recommended to approve the proposed revisions to the Five-Year Water Resource Development Work Program to be included in the Consolidated Annual Report.
9. **Appraisal, Purchase/Sale Agreement and Resolution Requesting Funds – Annutteliga Hammock Project, SWF Parcel Nos. 15-228-1339**
Staff recommended to accept the appraisal; approve the purchase and sale agreement; and designate SWF Parcel No. 15-228-1339 as having been acquired for conservation purposes.
10. **Resolutions Requesting the Encumbrance of Fiscal Year (FY) 2011 Budgeted Funds from the Water Management Lands Trust Fund (WMLTF) and Florida Forever Trust Fund for Preacquisition; Management, Maintenance and Capital Improvements; and Payments in Lieu of Taxes**
Staff recommended to approve resolutions requesting the encumbrance of the District's FY2011 budget for preacquisition; land management, maintenance and capital improvements; payments in lieu of taxes within the WMLTF and Florida Forever Trust Fund; and authorize staff to request quarterly reimbursements for FY2011 costs not to exceed \$19,572,580.
11. **Clearwater Chautauqua/Coachman Reclaimed Water Project – First Amendment**
Staff recommended to approve the no-cost change first amendment to the agreement with the City of Clearwater for the Chautauqua/Coachman Reclaimed Water project to modify the scope of work and modify the project timeline, and authorize the Executive Director to execute the amendment.
12. **Polk County Southwest Regional Utilities Service Area (SWRUSA) Carter Road Reclaimed Water Project – First Amendment**
Staff recommended to approve the first amendment to the agreement with Polk County for the Polk County SWRUSA Carter Road Reclaimed Water Project to modify the scope of work, reduce the project costs, proportionately reduce the District's funding commitment, and extend the customer connection date; and authorize the Executive Director to execute the amendment.

Finance & Administration Committee

13. **Budget Transfer Report**
Staff recommended to approve the Budget Transfer Report covering all budget transfers for December 2010.

General Counsel's Report

14. **Initiation of Litigation – Unlawful Entry and Unlawful Detainer - Dean D. Grubb – Pasco County**
Staff recommended to authorize the initiation of litigation in the County Court in Pasco County against Mr. Grubb for Unlawful Entry and Unlawful Detainer, allowing Mr. Grubb due process to present any claim or defense he may have; and seeking a court-ordered Writ of Possession, to be enforced, if granted, by the Pasco County Sheriff after allowing Mr. Grubb a reasonable time to remove his personal property.
15. **Settlement Agreement – SWFWMD v. Lawrence Sutton & Victoria Sutton, et al., Case No. 2009-CA-008298-2050, 10th Judicial Circuit - Lake Hancock Project, SWF Parcel No. 20-503-220 – Polk County**
Staff recommended to approve the Settlement Agreement in the total amount of \$1,320,458.

16. **Mediated Agreement on Costs – SWFWMD v. Titus L. Weflen & Angela R. Weflen, et al., Case No. 53-2009-CA-008352, 10th Judicial Circuit - Lake Hancock Project, SWF Parcel No. 20-503-207 – Polk County**

Staff recommended to approve the payment of \$103,643 for experts' fees and costs incurred by the property owners.

Executive Director's Report

17. **Approve Governing Board Minutes – December 14, 2010 Meeting**

Staff recommended to approve the minutes.

Mr. Gramling moved, seconded by Mr. Adams, to approve the Consent Agenda as presented. Motion carried unanimously. (Track 1 – 10:25/10:53)

Chair Oakley relinquished the gavel to Regulation Committee Chair Beruff.

Regulation Committee

Discussion Items

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

19. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said December historically marks the third month of the eight-month dry season and provisional rainfall totals for the month were below-normal in the northern and central regions and within the normal range in the southern region. Analysis of dry-season rainfall, to date, shows October through December totals to be below the historic mean in all regions of the District. Rainfall was regionally variable during the month and mainly associated with the passage of several cold front systems moving across the District. The cold weather systems brought freezing temperatures to some areas of the District that caused agricultural interests to pump groundwater for crop protection. Groundwater pumping during the cold weather events caused temporary aquifer level declines in the Dover/Plant City area of Hillsborough County that resulted in numerous dry wells complaints and the development of at least one sinkhole. The provisional 12-month District-wide rainfall deficit worsened during December, ending the month approximately 3.7 inches below the long-term average. The 24-month and 36-month cumulative rainfall deficits worsened and are approximately 6.11 inches and 10.9 inches, respectively, below the long-term average. The amount of rainfall received during December was not sufficient to improve conditions, and most hydrologic indicators declined throughout the District. Regional lake levels, streamflow and groundwater levels ended the month at below-normal conditions. The U.S. Drought Monitor, as of December 28, indicates that abnormally dry to severe drought conditions exist throughout the District, and that conditions are expected to worsen. (Track 2 – 00:00/10:31)

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

20. **Consider Modification of Water Shortage Order 2010-022**

Ms. Lois Sorensen, Manager, Demand Management Program, noted that the Governing Board declared a Phase I Water Shortage at its November 16, 2010 meeting. As a result, Water Shortage Order No. 2010-022 was entered into, effective December 1, 2010. She said staff has continued to monitor hydrologic conditions and other pertinent factors in accordance with the District's Water Shortage Plan (Rule 40D-21, Florida Administrative Code) to determine when and if this existing declaration needs to be modified or rescinded. Ms. Sorensen noted that although below-normal water resource conditions continue, with many indicators having worse values than those that existed when the Modified Phase I (Moderate Water Shortage) was declared in November, water supply conditions were favorable. She reviewed major public supply demand and reservoir status

information. Ms. Sorensen said staff recommends not increasing water shortage restrictions at this time, communicating the importance of checking and repairing irrigation systems, continuing to closely monitoring resource and supply conditions, and reassessing the decision each month.

Mr. Owen said staff recommends not changing the water shortage restrictions. Following consideration, **Ms. Closshey moved, seconded by Mr. Tharp, to approve the staff recommendation. Motion carried unanimously.** (Track 3 – 00:00/12:23)

21. **Freeze Protection Pumpage Status Report**

Ms. Alba Más, Director, Tampa Regulation Department, provided a status report on freeze protection management activities. She noted that the Dover/Plant City area of Hillsborough County experienced two two-day freeze events and one three-day freeze event during the month of December, and then another freeze event in mid-January. Pumping of groundwater by the commodities that use irrigation for frost/freeze protection during the freeze events resulted in the drawdown of the aquifer in the area. Dry wells have been reported after each freeze event. During the December meeting, the Governing Board authorized the Executive Director to adopt emergency rules pertaining to specific portions of the proposed rule amendments authorized by the Board for the Dover/Plant City area. Staff has been implementing the emergency rules for the well complaint allocation process, as well as for the well-complaint investigation and mitigation process. (Track 4 – 00:00/03:45)

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

22. **Individual Water Use Permits Referred to the Governing Board – WUP No. 20011771.001 - Tampa Bay Water Consolidated Permit – Hillsborough County**

Ms. Alba Más, Director, Tampa Regulation Department, presented a summary of the proposed permit, including the primary mechanisms that will be used to achieve additional recovery specified in the Operations Plan, Environmental Management Plan, Phase 1 Mitigation Plan and the Permit Recovery Assessment Plan. The proposed renewal for the Consolidated Permit will maintain the 90 MGD average annual withdrawal quantity for a duration of 10 years and requires the ongoing implementation of the Northern Tampa Bay Recovery Strategy and the Comprehensive Environmental Resources Recovery Plan outlined in Rule 40D-80.073, Florida Administrative Code (F.A.C.). Inclusion of this Comprehensive Plan is needed to continue the prescribed recovery strategy. Although the strategy of reducing groundwater withdrawals from the Central System Facilities has, to date, resulted in increased water levels and flows and improved conditions in many wetlands, lakes, streams, springs and aquifer levels, compliance with the criteria specified in the Conditions for Issuance of Permits, Rule 40D-2.301, F.A.C., has not yet been demonstrated. This past spring the Governing Board adopted rules implementing the second phase of the Recovery Strategy. These rules became effective May 26, 2010 and contain the Comprehensive Plan that allows for issuance of this permit.

Mr. Warren Hogg, representing Tampa Bay Water, was available to answer questions from the Board.

Ms. Más said staff recommends approving the proposed Northern Tampa Bay Consolidated Permit renewal, as presented. Following consideration, **Mr. Gramling moved, seconded by Ms. Closshey, to approve the staff recommendation.**

Committee Chair Beruff noted that one request to speak had been submitted. (Track 4 – 03:45/15:55)

Ms. Eileen Hart, a resident of Odessa, expressed her concern for effects from wellfields on the lakes (Rogers and Raleigh) in the area where she lives and past drought conditions. (Track 4 – 15:55/19:50)

Discussion ensued regarding lakes, minimum flows and levels, and wellfields. **Motion carried unanimously.** (Track 4 – 19:50/27:57)

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

Mr. Ken Weber, Water Use Program Director, Resource Regulation, said a new approach to portray the water use activities in the Southern Water Use Caution Area (SWUCA) has been developed that will replace the previous monthly Routine Report. This new approach shows the total permitted groundwater quantity from March 1998, updated monthly, on a single graph rather than the permitted quantities from the intermediate aquifer system and from the Floridan aquifer as has been previously included in the monthly packet. In addition, the new graph shows the estimation of the actual use of groundwater in the SWUCA from 1998 through 2009. This addition allows tracking of the groundwater usage by use type over time, showing the changes that occur due to climate and other influences. The monthly tracking of groundwater quantities permitted will continue; however, the estimation of the amount of groundwater pumped will only be updated annually when these data become available.

Mr. Weber noted that staff may have additional changes forthcoming, such as adding the total Floridan groundwater permitted quantity, and the Board may see a slight revision to the chart within the next several months. (Track 5 – 00:00/05:55)

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

24. **Denials Referred to the Governing Board** – None

Submit & File Reports – None

Routine Reports

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

25. **Public Supply Production Report**
26. **Southern Water Use Caution Area Quantities**
27. **Overpumpage Report**
28. **E-Permitting Metrics: Online vs. Paper Applications**
29. **Individual Permits Issued by District Staff**
30. **Resource Regulation Significant Initiatives**

- Mr. Owen said the Tampa Bay Water permit is the District's largest water use permit. He noted that currently in-house is the District's second largest permit which is the Mosaic Phosphate Mining and Processing permit. Mr. Owen said tremendous progress has been made on that application through discussions with the applicant. He pointed out that approximately 280,000 acres are under this permit, and the permit should be completed within the next few months for the Board's approval.

Regulation Committee Chair Beruff relinquished the gavel to Resource Management Committee Chair Joerger. (Track 5 – 05:55/09:02)

Resource Management Committee

Discussion Items

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

32. **Reuse Program Overview**

Mr. Anthony Andrade, Senior Water Conservation Analyst, Resource Projects Department, provided an overview on staffing, budget and trends associated with the District's reclaimed water (reuse) program. Reuse is one of the guiding principles of the District's Regional Water Supply Plan. The beneficial use of reclaimed water has been an integral

part of the District's strategies to meet projected water supply demands including for the Northern Tampa Bay and Southern Water Use Caution Area Recovery Strategies. As such, reuse is included as a water supply strategic initiative in the District's Strategic Plan and a priority for all Basin Boards. The District's reclaimed water goals are to achieve a 75 percent utilization rate of all wastewater treatment plant flows and a 75 percent offset efficiency of all reclaimed water used by the year 2030. As of 2008 (most recent confirmed Florida Department of Environmental Protection data), utilities in the District are at 50 percent utilization and 66 percent offset efficiency. Pursuing these reuse goals will be instrumental in assisting utilities in achieving the District objective for all utilities to reduce per capita usage below 150 gallons per day by 2019. Future reuse initiatives, such as the 156 potential reclaimed water projects identified in the District Regional Water Supply Plan, can enable these goals and objectives to be met. (Track 6 – 00:00/18:12)

Ms. Closshey requested the map showing projects for regionalization be revisited at a future meeting for discussion of the plan's purpose to assist the Board in prioritizing funds. In response to Ms. Senft's question, Mr. Wirth said the District is receiving a quick response from the Governor's Office for projects that had been previously contracted. Discussion ensued. (Track 6 – 18:12/28:06)

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

33. **Utility Outreach Program Overview**

Mr. Ken Herd, Water Supply Program Director, Resource Projects Department, provided an overview on staffing, budget and trends associated with the District's Utility Outreach Program. The District initiated the Outreach Program to help accomplish the goals and objectives of the District's public water supply related strategic initiatives. The Outreach Program involves proactively working with the 193 water supply utilities within the District on water supply planning and management to assist local governments and utilities in developing and implementing programs to reduce their per capita water use and expand their use of reclaimed water and other alternative sources. Through this collaborative process, the District will inform utilities of key programs and resources, assist in identifying and developing water conservation related programs, and enable the District to better understand specific challenges the utilities face. (Track 7 – 00:00/16:10)

In response to Mr. Pressman's concern, Mr. Moore said staff will inform the Board of any funding requests for the Withlacoochee Regional Water Supply Authority. In response to Ms. Closshey's question, Mr. Moore said a joint meeting is not scheduled for this fiscal year. (Track 7 – 16:10/17:27)

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

34. **Water Quality Monitoring Program (WQMP) Overview**

Ms. Roberta Starks, WQMP Manager, Resource Data and Restoration Department, provided an update on projects, staffing, funding, and trends associated with the District's WQMP. The District's WQMP adheres to strict monitoring and data reporting protocols required under Florida Administrative Code 62-160. Following these standards ensures that high quality data are available for District and statewide water resource decisions. The District's WQMP is primarily supported through Governing Board funds. In addition to supporting the Florida Department of Environmental Protection, the District began implementing additional goal specific monitoring projects in the late 1980s through the WQMP to support resource management decisions. These long-term projects have continued, and include monitoring the occurrence and movement of saline groundwater intrusion in support of the Southern Water Use Caution Area. Other projects include the investigation of nutrients in groundwater discharging from springs, trend monitoring of river water quality, and status monitoring of lake water quality. The WQMP also maintains several specialized shorter-term water quality networks that measure the success of implemented projects, programs, and cooperatively funded initiatives such as the Shell,

Prairie, and Joshua Creek Reasonable Assurance Plan performance monitoring.
(Track 8 – 00:00/09:45)

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

Submit & File Reports – None

Routine Reports

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

35. **Florida Forever Funding**
36. **Minimum Flows and Levels**
37. **Structure Operations**
38. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
39. **Significant Water Supply and Resource Development Projects**
 - Mr. Wirth noted that the bid has been released for the Lake Hancock Treatment Project and bids should come in by mid-March. (Track 8 – 09:45/10:15)

Mr. Gramling said he attended the American with Disabilities Adventure Hunt held several weeks ago. He expressed the satisfaction he felt by the District being able to provide these citizens with an experience they could not have without the District's assistance. He hopes that the District will consider all opportunities to maximize use of the District lands. Chair Oakley noted that Ms. Margaret Blommel, Land Use Specialist in the Land Resources Department, and her husband volunteer their services, and he encouraged staff to arrange more opportunities for citizens to use District lands.

Committee Chair Joerger relinquished the gavel to Finance and Administration Committee Chair Tharp. (Track 8 – 10:15/13:06)

Finance and Administration Committee

Committee Chair Tharp said Item 44 will be considered before Item 43.

Discussion Items

40. **Consent Item(s) Moved for Discussion** – None
41. **Request for Proposals for Workload and Staffing Analysis – Approve Short List**

Committee Chair Tharp said that six proposals were received in response to the Request for Quotes (RFQ) for Workload and Staffing Analysis. He said staff has evaluated the proposals and will provide a recommendation.

Ms. Elaine M. Kuligofski, Director, Human Resources & Risk Management Department, provided the Board members with a status report on the process for the RFQ for Workload and Staffing Analysis that was issued by the District in November 2010. The District's Finance Department, Contracts Administration Section, the Office of General Counsel, the Human Resources Department and Executive subsequently reviewed the three proposals and determined that none of the three proposals were properly responsive to the District's RFP. This matter and the reasons for rejection of the proposals were discussed with the Governing Board Chair and the Finance Committee Chair. Subsequently, staff was directed to review the timeline to formally reject the proposals and all three of the proposals were rejected as non-responsive.

Ms. Kuligofski said staff was directed to contact potential vendors that have already been qualified under State Contract for performance of the type of management consulting work that will meet the District's needs for a comprehensive review of workloads and staffing levels. A Request for Quotes was submitted to 66 management consulting vendors on the state contract on December 30, 2010, and six quotes were received. The respondents are

CMA Enterprises Incorporated; Disasters, Strategies & Ideas Group, LLC; KPMG, LLP; Maximus Consulting Services, Inc.; North Highland Consulting Company; and Quality Management International.

Ms. Kuligofski said staff recommends (1) selecting the two top-ranked consultants, North Highland Consulting Company and Maximus Consulting Services, Inc., to provide oral presentations to the Governing Board Ad Hoc Committee at the meeting noticed for January 27, 2011; (2) designating members of the Governing Board to serve on the Ad Hoc Committee; and (3) authorizing staff to transfer funds from FY2011 General Fund Contingency Reserves in an amount not to exceed the final negotiated contract amount. (Track 9 – 00:00/04:50)

Discussion ensued regarding costs/pricing, criteria for staff evaluations, consultant working for the Board with staff as the liaison, references, and hearing three consultants' oral presentations. Following consideration, **Chair Oakley moved, seconded by Ms. Closshey, to select KPMG, LLP; North Highland Consulting Company; and Maximus Consulting Services, Inc., to provide oral presentations to the Governing Board Ad Hoc Committee at the meeting noticed for January 27, 2011.** (Track 9 – 04:50/15:50)

Ms. Kuligofski noted that hearing the oral presentations on January 27, 2011, allows work to begin in February instead of March. She then reviewed the timelines for the project after selection occurs.

Motion carried unanimously. Committee Chair Tharp said each oral presentation will be approximately 20 minutes plus time for questions/answers. (Track 9 – 15:50/21:15)

Chair Oakley moved to designate himself, Committee Chair Tharp, Ms. Closshey (via telephone), Mr. Combee and Ms. Whitehead to serve on the Ad Hoc Committee. Mr. Gramling seconded the motion and it carried unanimously. (Track 9 – 21:15/24:17)

Following direction by Mr. Bilenky, **Mr. Senft moved, seconded by Ms. Closshey, to delegate to the Ad Hoc Committee the Board's authority to select the consultant. Motion carried unanimously.** (Track 9 – 24:17/25:56)

Mr. Gramling moved, seconded by Chair Oakley, to authorize staff to transfer funds from Fiscal Year 2011 General Fund Contingency Reserves in an amount not to exceed the final negotiated contract amount. Motion carried unanimously. (Track 9 – 25:56/26:34)

42. **Inter-District Coordination on Request for Proposal for Salary and Benefit Study Update**

Committee Chair Tharp said the Board originally requested a Request for Proposals (RFP) to be prepared for a salary and benefit study. The Board then decided not to move forward with the RFP, but now there are indications the Governor will request all water management district boards to perform this type of study. At the Board's request, staff approached the other water management districts (WMDs) regarding a collaborative study. South Florida WMD indicated that it reviews approximately one-third of its positions each year; St. Johns River WMD indicated that it conducted a study three years ago and recently verified the data, which shows little change in the market. These two WMDs have indicated that they do not wish to participate in an external study at this time. Northwest and Suwannee River WMDs are considerably smaller and their local labor markets are substantially different than those on the southwest coast of Florida. Based upon feedback from the other WMDs, it is not feasible at this time to conduct a meaningful inter-district study.

Mr. Fritsch said the purpose of this review will be to evaluate whether District compensation practices, including pay plan, salaries and benefits, are aligned with the other WMDs and with other public and private sector markets in view of current economic conditions and trends. Since the District's data is now five years old, staff recommends moving forward with an RFP for an external consultant to perform a salary and benefits study independent of the other WMDS and use the state contract list.

Chair Oakley moved, seconded by Mr. Adams, to approve the staff recommendation as presented. (Track 10 – 00:00/03:25)

Discussion ensued regarding state-qualified contract list versus release to general public, and addressing the Governor's Office request to ensure the needed feedback is provided.

Motion carried unanimously. (Track 10 – 03:25/10:47)

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

44. **Fiscal Year (FY) 2011 Grants Budget Overview**

Mr. Fritsch said, in preparation for FY2012 budget development, staff is providing the Governing Board a comprehensive overview of the District's budget concurrently in two parts: (1) overview of budget by program and expenditure category, and (2) overviews of individual District initiatives and programs.

Mr. Fritsch provided an overview of the District's FY2011 budget by program and by expenditure category. The budget overview highlighted cooperative funding grants of \$61 million and reserves held for cooperative funding grants of \$18 million, for a total of \$79 million of the total \$280 million budget. (Track 11 – 00:00/20:10)

Mr. Beruff requested historical expenditure information in five-year increments (2001 through 2011). (Track 11 – 20:10/23:31)

Mr. Fritsch's overview continued and clarification was provided in response to questions by the Board. (Track 11 – 23:31/46:51)

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

At this time, the Board recessed for a lunch break and then reconvened at 1:10 p.m.

43. **Fiscal Year (FY) 2012 Budget Development Process – Acceptance of Assumptions**

Mr. Fritsch noted that a memorandum and exhibits were included in the Board's meeting materials in preparation of Governing Board's review of the planned budget development process. He noted that, upon acceptance of this process, District staff will begin FY2012 budget development. He then provided an overview of the economic outlook, analysis of statutory tax laws, budget calendar, strategic budget guidance, and specific FY2012 budget guidance to staff for developing the initial budget. This additional guidance by the Board during discussion at meetings (August through December 2010) included reducing overall property taxes where appropriate, reducing cost if service requirements have been reduced or costs have been decreased due to market conditions, updating the financial engine, reducing reserves where they are not needed, and providing a budget format similar to the Basin budget format.

Mr. Fritsch said staff recommends accepting the planned FY2012 Budget Development Process as described in the memorandum and exhibits provided in the Board's meeting materials. He said still will be notified to anticipate a five-percent reduction in ad valorem property values and a ten-percent reduction in the millage rate.

Following consideration, **Mr. Gramling moved, seconded by Chair Oakley, to approve the staff recommendation as presented. Motion carried unanimously.** (Track 12 – 00:00/43:54)

45. **Board Travel**

Ms. Kavouras noted that travel to any conference or convention requires prior Board approval. Ms. Closshey and Mr. Tharp have requested to attend the 27th Annual Growth Management, Energy, Climate Change and the Environment Short Course in Orlando on February 22-24, 2011, at an estimated total cost of \$633 per person.

Mr. Gramling moved, seconded by Mr. Senft, to approve the staff recommendation as presented. Motion carried unanimously. (Track 13 – 00:00/01:33)

Submit & File Report

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

46. **Fiscal Year 2011 First Quarter Financial Report**

Routine Reports

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

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

48. **Management Services Significant Activities**

Finance and Administration Committee Chair Tharp relinquished the gavel to Committee Vice Chair Closshey. (Track 13 – 01:33/01:48)

Outreach and Planning Committee

Discussion Items

49. **Regional Water Supply Plan Update**

Ms. Kavouras noted that the Board received the draft Regional Water Supply Plan (RWSP) at its meeting in January 2011. The RWSP is required by statute every five years for areas where 20-year demand is anticipated to exhaust existing supplies. Although the official due date to the Florida Department of Environmental Protection is December 2011 (five years after approval of the 2006 RWSP), staff initiated work in June 2008 with the intent to finish in the fall of 2010 to be concurrent with the other water management districts. However, as work has progressed, the other water management districts have opted to alter their schedules. As growth management legislation is likely in the 2011 Legislative Session, postponement of approval to December 2011 would allow staff to be more responsive to any alteration to growth management laws impacting water supply planning and allow staff to review updated demand projections for potential inclusion in the plan. The current drafts will remain available on the District's web site should local governments wish to use them in their ongoing water supply planning efforts.

Ms. Kavouras said staff recommends postponing adoption of the RWSP until December 2011 at the latest, thereby allowing staff to align the plan with 2011 legislative changes and evaluate the necessity to update the projections.

Following consideration, **Mr. Tharp moved, seconded by Mr. Senft, to approve the staff recommendation as presented. Motion carried unanimously.** (Track 14 – 00:00/09:29)

50. **Development of Fiscal Year 2013 - 2018 Strategic Plan**

Committee Vice Chair Closshey shared her observations of the January 11, 2011, Committee meeting. The Committee discussed and identified several options for a revised mission statement, the need for a strategic communication plan, and a dialog on Board

policies and how the Board manages itself. She said the Committee showed incredible transparency and openness during the meeting. The Committee and staff will continue to monitor issues coming out of Tallahassee to assist in crafting the plan. The Committee felt this process was valuable, and there was consensus and commitment to move forward to ensure adequate time and discourse is devoted to the new plan.

Mr. Moore thanked the six Board members who attended the Committee meeting. He summarized the opening comments he provided at the meeting (included in the Board's meeting materials).

Ms. Kavouras provided a summary of the information given to the Board. The Committee reviewed 16 Mission Statements and developed three additional potential statements. At the February meeting, the Committee will discuss the Flood Protection area of responsibility. The Committee also reviewed a proposed schedule depicting a project timeline and plans to have the final approved document by the end of 2011. Based on the importance of the project, the group decided to meet monthly as a committee, followed by briefings to the full Governing Board. (Track 15 – 00:00/11:18)

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

51. **Selecting 2011 Public Service Advertising Campaign**

Mr. Michael Molligan, Director, Communications Department, said the purpose for this item is to determine whether the topic of the FY2011 public service advertising (PSA) campaign will be water conservation or water quality. He noted that PSA is one initiative the District uses to promote water resources awareness and conservation practices. All advertising promotes the do-it-yourself fertilizing guide and the District's web site for additional information. The campaign also includes outreach elements through the news media, special events, public affairs programming and the District's Speakers Bureau.

Mr. Molligan said rainfall began to decrease dramatically in late summer/early fall. September rainfall was about half of normal, while October's precipitation was among the lowest on record for that month. At the October Governing Board meeting, Board members discussed concerns about the developing dry conditions and the need to promote water conservation. As a result of discussions at the meeting, it was determined that staff would (1) conduct a winter radio campaign repeating the "Skip a Week" theme, (2) develop a new water conservation campaign, concurrent with the ongoing development of the water quality campaign, and (3) continue monitoring conditions and return to the Board in January to decide which campaign to run. The District is currently conducting its winter radio "Skip a Week" campaign, which began shortly after Christmas and will run until mid-February at a cost of \$100,000.

Mr. Molligan said a new water conservation campaign has been developed that stresses "norming" (your friends and neighbors are doing it — you can too) with a tag line of "Florida's water, it's our water, and it's worth saving." As part of the integrated campaign, staff developed and produced two ads for television, two for radio, a newspaper ad, a billboard, bus wraps and pages on the District's web site. After deciding which topic to promote, the campaign will be conducted from mid-February through mid-May at a cost of approximately \$700,000.

Mr. Molligan said staff recommends Board concurrence with the water quality campaigns. Board members viewed the television commercials developed for both campaigns.

Mr. Tharp moved, seconded by Mr. Gramling, to approve the water quality campaign. Motion carried unanimously. (Track 16 – 00:00/15:51)

52. **Legislative Update**

Mr. David Rathke, Director, Community and Legislative Affairs Department, provided an update on the upcoming 2011 legislative session that will begin in March, including pending legislation already filed. Due to a new governor, there is a new cabinet, new legislative leadership and new department heads. The focus on the last few years has been on streamlining and improved efficiency in government.

Mr. Rathke provided a summary of the recently enacted Executive Orders by Governor Scott. He said Executive Order 11-01 suspended rule initiation, and he reviewed rules affected. Executive Orders 11-01, 11-02, 11-03 and 11-04 include:

- Freezing all new regulations and establishment of the Office of Fiscal Accountability and Regulatory Reform, which will review all rules prior to promulgation as well as agency practices and contracts in excess of one million dollars;
- Requiring state agencies to use the E-Verify system to verify employment eligibility of state employees and contractors;
- Establishment of the Governor's policy on ethics and open government, and requiring agencies to comply with the Governor's policy; and
- Reaffirming the Governor's commitment to diversity in government.

Mr. Rathke said Governing Board Chair Oakley communicated to staff to voluntarily comply with these Executive Orders. Mr. Rathke further stated that staff recommends the Board ratify the Chair's direction to comply with the Governor's Executive Orders.

Mr. Gramling moved, seconded by Mr. Senft, to ratify the Chair's direction to staff to comply with Executive Orders 11-01, 11-02, 11-03 and 11-04. Motion carried unanimously. (Track 17 – 00:00/11:05)

Mr. Rathke provided an update of bills that are of interest to the District. He noted that committee meetings are underway, and the House Select Committee on Water Policy has been provided an overview of each water management district, highlighting key issues in each district. This committee is designed to provide a comprehensive review of the state's water policies. The committee will recommend actions to ensure Florida uses its water resources in an effective and sustainable manner. This committee is supposed to submit its preliminary findings and recommendations prior to the 2011 Legislative Session, and final findings and recommendations the following year. (Track 17 – 11:05/16:20)

Submit & File Reports

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

53. **Consolidated Annual Report Status**

- Ms. Kavouras noted that this draft document is provided for the Board's review and approval at the February 2011 meeting. Revisions are needed by February 4, 2011, for incorporation into the document. (Track 17 – 16:20/17:25)

Routine Reports

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

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

55. **Development of Regional Impact Reviews**

56. **Speakers Bureau**

57. **Significant Activities**

Outreach and Planning Committee Vice Chair Closshey relinquished the gavel to Chair Oakley. (Track 17 – 17:25/17:30) (Messrs. Adams, Joerger and Pressman left the meeting.)

General Counsel's Report

Discussion Items

58. **Consent Item(s) Moved for Discussion** – None
59. **Status of Tampa Bay Water's Seawater Desalination Project Operational Protocol Discussions**

Mr. Bilenky stated that, during the September 2010 Governing Board meeting, staff discussed the history of the agreement that brought about the final District payments for the completion of Tampa Bay Water's desalination facility. As part of that discussion, it was noted that the District and TBW have a fundamental disagreement as to whether the original Funding Agreement between the District and Tampa Bay Water remains in force and effect after the final payment made pursuant to the Second Amendment to that Agreement. The Funding Agreement references specific operational levels for the desalination facility. The District's General Counsel, based upon a legal opinion from outside counsel, has advised the Governing Board that the Funding Agreement remains in effect through December 2032. The General Counsel of TBW has disagreed.

Mr. Bilenky noted that, on January 7, 2011, the General Counsel of TBW provided a draft "Third Amendment" to the Funding Agreement in which he incorporated significant portions of the operational protocol suggested by the District's General Counsel. The proposal was qualified as only a "staff effort" requiring approval of the TBW Board. He stated that no input into the draft had been provided by the TBW Board and that many of TBW's Board members might not be inclined to enter into such an agreement until they have had the opportunity to discuss the issue at a joint meeting with the District's Governing Board. Staff provided the Governing Board a list of the available options including the response provided by the TBW General Counsel prior to today's meeting. (Track 18 – 00:00/03:25)

Mr. Bilenky reviewed the following options with the Governing Board for how to deal with the operational protocol for the desalination facility.

- (1) Enter into negotiations with TBW to develop a mutually agreed upon "Agreement for the Operation of the Seawater Desalination Plant" utilizing the initial District and TBW drafts and incorporating any additional provisions from the following alternatives.
- (2) Consider at what levels the desalination plant had been operated (to avoid exceeding any quantity limitations in any permit condition issued to TBW by the District) when assessing applicable penalties when those permit quantities had been exceeded.
- (3) Require a prospective minimum annual operating level for the desalination plant and a process for reviewing and adjusting that level for changes in hydrologic conditions from projected conditions.
- (4) Conduct a joint boards meeting to discuss the policy implications surrounding the operation of the desalination plant and direct the staffs of the District and TBW to reach a compromise operational protocol for consideration by each board for approval.
- (5) Recognize the operational level achieved by the desalination plant and consider those factors as the available reliable source definition for the purpose of meeting the system demand and for permitting other TBW sources.
- (6) Recognizing the desalination plant quantities in all future permits and make the assurance that the facility is being maintained so as to meet the operational levels of the desalination plant a permit condition.
- (7) Utilize the District's existing Cooperative Funding language relative to the cooperator's past performance to assess the long-term operation of the desalination plant when considering future funding requests from TBW.

- (8) Discontinue budgeting funds for TBW cooperatively funded projects until TBW develops 20 million gallons per day (mgd) of new alternative water supply to offset the District funding for the desalination plant.
- (9) Change the District's rules that exempt the desalination plant from the requirement for obtaining a water use permit and permit the desalination plant.
- (10) Seek a Declaratory Judgment from the Circuit Court on the meaning and constraints available to the District pursuant to the Funding Agreement as amended between the District and TBW.
- (11) Offer to purchase the desalination facility at a price equal to TBW's investment in the facility and, as a condition of purchase, negotiate a take or pay contract for an annual quantity of 20 mgd.
- (12) Enforce the existing Funding Agreement that requires TBW to operate the desalination plant at levels set forth in the Operation and Maintenance Agreement referenced therein.
- (13) Offer TBW variances on its members' per capita or other rule requirements in return for producing water at 20 mgd.

Chair Oakley said it is at the Board's discretion which options to consider. He suggested that the Governing Board Chair, Executive Director and General Counsel handle negotiations with TBW. (Track 18 – 03:25/27:53)

Ms. Closshey moved, seconded by Ms. Whitehead, to approve for consideration of Options (2), (5), (6) and (7) for negotiation. Motion carried unanimously. (Track 18 – 27:53/29:42)

Mr. Gramling moved, seconded by Mr. Beruff, to approve consideration of Option (3) and modify to include minimum quantity set at 15 mgd for negotiation. Motion carried unanimously. (Track 18 – 29:42/34:23)

Mr. Beruff moved, seconded by Mr. Senft, to approve consideration of Option (1) for negotiation. Motion carried unanimously. (Track 18 – 34:23/36:00)

Ms. Closshey moved, seconded by Mr. Gramling, to request staff investigate Option (9) and provide a report and recommendation on what is occurring in the state with desalination for the Board to consider from a strategic policy standpoint. Motion died for lack of a vote. (Track 18 – 36:00/36:55)

Mr. Bilenky said staff will contact the other water management districts and Florida Department of Environmental Protection regarding desalination permitting. He explained the details of Option (12). Discussion ensued regarding operation levels and Third Amendment to Funding Agreement. Mr. Bilenky said negotiations will begin at staff level as done in the past and then include the Chair if an impasse occurs. (Track 18 – 36:55/50:25)

Mr. Warren Hogg, representing TBW, provided a brief update on operation of the desalination plant stating that it had been out of service with a pipe break but the facility had been repaired and was now operating. (Track 18 – 50:25/55:10)

Submit & File Reports – None

Routine Reports

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

60. **Litigation Report**

61. **Rulemaking Update**

(Track 18 – 55:10/55:21)

(Mr. Beruff left the meeting.)

Committee/Liaison Reports

62. **Joint Industrial and Public Supply Committees Meeting**

Ms. Closshey said the joint meeting was held on January 11, 2011. Topics discussed included updates on rulemaking, hydrologic conditions and water shortage plan, Northern Tampa Bay Recovery Program regarding minimum flows and levels and Phase 1 recovery; SWUCA Recovery; Aquifer Storage and Recovery – Arsenic Update; EPA Numeric Nutrient Criteria, public service advertising; legislative preview; and Board Policy Committee Roles, Responsibilities and Sunshine Law. (Track 19 – 00:00/02:00)

63. **Well Drillers Advisory Committee Meeting**

Chair Oakley said the meeting was held on January 12, 2011. Topics discussed included updates on the current Dover/Plant City recovery strategy; FDEP proposed rule changes; proposed changes in water well contractor disciplinary guidelines, manual and uniform citations; proposed pump legislation; hydrologic conditions and water shortage plan; well construction permit fees; and WMIS. (Track 19 – 02:00/05:00)

Executive Director's Report

64. **Executive Director's Report**

a. **September 28, 2010 Governing Board Workshop Summary Update**

Mr. Moore said the Governing Board met in a workshop session on September 28, 2010. During the workshop, the Board discussed goals, policies and key positions; allocation of the Proposed FY2011 Budget by strategic initiatives; project/program evaluation, selection and decision making process, as well as other topics, which are summarized on the table included in the Board's meeting materials. The workshop summary table is updated monthly and captures the 16 issues put forth by the Board, staff's proposed action, and the current status of each.

b. **Other**

- Mr. Moore said staff is working to plan a series of events for later this year in celebration of the District's fiftieth anniversary.
- Mr. Moore said, since Mr. Schiller retired the end of January, Mr. Kurt Fritsch was named the Acting Deputy Executive Director of Management Services. He noted that Mr. Schiller will receive his retirement plaque at the Board's February meeting. (Track 19 – 05:00/07:35)

Chair's Report

Chair Oakley said he commends staff for the good discussions held today.

Mr. Tharp noted a citizens meeting was held at Lake Panasoffkee in early December 2010 regarding cleanup concerns. He commended staff for their outstanding professionalism at the meeting. He noted there was a 65-percent public response to the survey done by the District. Also, Mr. Tharp said there was an Arbor Day planting in Wildwood as part of the "Get Outside!" campaign.

65. **Chair's Report**

a. **Appoint Interim Basin Board Education Committee Liaison**

Ms. Judy Whitehead has agreed to serve as the Governing Board's liaison to the Basin Board Education Committee until new appointments are made following the Board's election of officers in May. **Mr. Combee moved, seconded by Ms. Closshey, to appoint Ms. Whitehead as the Governing Board's liaison to the Basin Board Education Committee. Motion carried unanimously.** (Track 19 – 07:35/11:05)

b. **Board Confirmation of Appointment of Mr. Adams as Presiding Officer in Bid Protest Proceeding – CKA, LLC v. SWFWMD**

The Governing Board was requested to confirm the appointment of Board Member Jeffrey M. Adams, Esq., to serve as the presiding officer in the bid protest proceeding, CKA, LLC v. Southwest Florida Water Management District. On December 20, 2010, the District received a bid protest from CKA, LLC in connection with the Lake Hancock Lake Level Modification P-11 Structure Replacement Project. The petition does not allege any disputed issues of material fact. Accordingly, an informal proceeding is being conducted pursuant to Section 120.57(2), Florida Statutes, to resolve the issues of law presented in the petition. Board Member Jeffrey M. Adams, Esquire, was selected by the Chair as the presiding officer to conduct the proceeding on behalf of the District. **Mr. Tharp moved, seconded by Mr. Gramling, to confirm the appointment of Jeffrey M. Adams, Esq., as presiding officer in the bid protest proceeding, CKA, LLC v. Southwest Florida Water Management District. Motion carried unanimously.** (Track 19 – 11:05/11:25)

Chair Oakley moved, seconded by Mr. Combee, to approve the interim assignment and compensation adjustment of Mr. Robert Dunne as the Acting Inspector General. Motion carried unanimously. (Track 19 – 11:25/12:47)

c. **Performance Evaluations of the Executive Director and Inspector General**

Ms. Elaine M. Kuligofski, Director, Human Resources & Risk Management, said the performance feedback submitted by each Board member was assembled into a single, draft performance appraisal for each employee, following the procedures described in Board Policy No. 710-2. No recommendations for improvement and professional development received endorsement from a majority of the Governing Board members; however, all recommendations submitted by the Board members will be provided to the employees under separate cover.

Ms. Kuligofski said staff recommends to (1) approve the 2010 performance appraisals of the Executive Director and former Inspector General and authorize them to be finalized; (2) authorize the Governing Board Chair to sign the final, approved appraisals and deliver them to the employees on behalf of the Governing Board; and (3) approve the 2011 Goals & Objectives for the Executive Director and Inspector General.

Discussion ensued regarding reconsideration of the Governing Board performance appraisal process for next year. Following consideration, **Mr. Tharp moved, seconded by Mr. Senft, to approve the staff recommendation. Motion carried unanimously.** (Track 20 – 00:00/12:20)

d. **Other**

There being no further business to come before the Board, Chair Oakley adjourned the meeting at 4:17 p.m. (Track 20 – 12:20/12:35)