

## MINUTES OF THE MEETING

### GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

JANUARY 27, 2015

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:05 a.m. on January 27, 2015, at the District's Tampa Service Office. The following persons were present:

#### Board Members Present

Michael A. Babb, Chair  
Randall S. Maggard, Vice Chair  
Jeffrey M. Adams, Secretary  
David W. Dunbar, Treasurer  
H. Paul Senft, Member  
Bryan Beswick, Member  
Carlos Beruff, Member  
Wendy Griffin, Member  
Michael A. Moran, Member  
Ed Armstrong, Member

#### Board Members Absent

George W. Mann, Member  
Tommy Bronson, Member

#### Staff Members

Robert R. Beltran, Executive Director  
Brian Armstrong, Assistant Executive Director  
David T. Rathke, Chief of Staff  
Kurt P. Fritsch, Inspector General  
Laura J. Donaldson, General Counsel  
John J. Campbell, Division Director  
Ken Frink, Division Director  
Mark A. Hammond, Division Director  
Alba E. Más, Division Director

#### Board's Administrative Support

Cara Martin, Board & Executive Services Manager  
Lori Manuel, Administrative Assistant

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](http://www.WaterMatters.org)).

#### **PUBLIC HEARING (Audio – 00:00)**

##### 1. **Call to Order**

Chair Michael Babb called the meeting to order and opened the public hearing. Secretary Jeff Adams noted a quorum was present.

##### 2. **Pledge of Allegiance and Invocation**

Board Member Moran offered the invocation. Chair Babb led the Pledge of Allegiance to the Flag of the United States of America.

Chair Babb 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 Babb 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 Babb 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**

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer.

Mr. Beltran, Executive Director, noted the following changes requested to the agenda.

The following item was moved from consent to discussion:

***General Counsel's Report***

16. **Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**

b. **Initiation of Litigation – Well Construction Permit Conditions Violation and Unauthorized Construction of a Public Supply Well – David N. Howard – License No. 9354 – Hillsborough County**

Chair Babb said there is good cause to amend the published agenda as allowed by Section 120.525, Florida Statutes. A motion was made to approve the amendments to the published agenda, as amended, which was seconded. The motion carried unanimously. (Audio 3:35)

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

Chair Babb noted at this time, the public is given an opportunity to comment on any topic not listed on the agenda. There were no *Request to Speak* cards submitted.

**CONSENT AGENDA** (Audio 3:55)

Chair Babb asked that before the Board considers action on the Consent Agenda whether there is anyone in the audience who wishes to address the Board regarding an item listed on the Consent Agenda.

Chair Babb stated he received no *Request to Speak* cards for any agenda items.

***Regulation Committee***

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

a. **WUP No. 20012514.008 - Colding Loop Road Wimauma/Colding Loop Road Farms (Hillsborough County)**

Staff recommended the Board approve the proposed permit attached in the packet as an exhibit.

***Operations, Lands and Resource Monitoring***

6. **Acceptance of Donation – Lake Hancock Project, SWF Parcel No. 20-503-232**

Staff recommended the Board accept an undivided one-fifth title interest in Jacque Lee Lane.

***Resource Management Committee***

7. **Scope Change for City of Clearwater's Groundwater Replenishment Project**

Staff recommended the Board approve the scope change for the City's Groundwater Replenishment Project to include third party review of the 30 percent design and total project costs.

8. **Lake McCoy BMPs Program – Cooperator Change (N637)**  
Staff recommended the Board approve the contractual arrangement with the Florida Department of Transportation as the lead in a tri-party agreement including the Highlands Soil and Water Conservation Commission and the District.
9. **Authorize Submission of Preliminary Flood Insurance Rate Maps to the Federal Emergency Management Agency for New River/Upper Hillsborough River Watershed in Pasco County**  
Staff recommended the Board authorize staff to submit the preliminary FIRMs for the New River/Upper Hillsborough River watershed in Pasco County to FEMA.
10. **FARMS – Flying V, Inc. – Griffin Landings, (H719), Polk County**  
Staff recommended the Board:
  - 1) Approve the Flying V, Inc. project for a not-to-exceed project reimbursement of \$19,400 with \$19,400 provided by the Governing Board;
  - 2) Authorize the transfer of \$19,400 from fund 010 H017 Governing Board FARMS Funds to the H719 Flying V, Inc. project fund;
  - 3) Authorize the Assistant Executive Director to sign the agreement.
11. **FARMS – Black Holding, LLC – Mil Roc (H718), Polk County**  
Staff recommended the Board:
  - 1) Approve the Black Holdings, LLC project for a not-to-exceed project reimbursement of \$9,700 with \$9,700 provided by the Governing Board;
  - 2) Authorize the transfer of \$9,700 from fund 010 H017 Governing Board FARMS Funds to the H718 Black Holdings, LLC project fund;
  - 3) Authorize the Assistant Executive Director to sign the agreement.
12. **FARMS – Mathis Landing Group, LLC – Colson Road (H717), Hillsborough County**  
Staff recommended the Board:
  - 1) Approve the Mathis Land Group, LLC project for a not-to-exceed project reimbursement of \$82,500 with \$82,500 provided by the Governing Board;
  - 2) Authorize the transfer of \$82,500 from fund 010 H017 Governing Board FARMS Funds to the H717 Mathis Land Group, LLC project fund;
  - 3) Authorize the Assistant Executive Director to sign the agreement.
13. **FARMS – Stardust Ranch, LLC (H716), Hernando County**  
Staff recommended the Board:
  - 1) Approve the Stardust Ranch, LLC project for a not-to-exceed project reimbursement of \$214,800 provided by the Governing Board;
  - 2) Authorize the transfer of \$214,800 from fund 010 H017 Governing Board FARMS funds to the H716 Stardust Ranch, LLC project fund;
  - 3) Authorize the Assistant Executive Director to sign the agreement.
14. **FARMS – Budget Transfer for the Model Farms Economic Study (H715)**  
Staff recommended the Board authorize the transfer of \$100,000 from fund 010 H017 Governing Board FARMS funds to the H715 Model Farms Economic Study (MFES) project fund.  
Finance/Outreach & Planning Committee

**Finance/Outreach & Planning Committee**

15. **Budget Transfer Report**

Staff recommended the Board approve the Budget Transfer report covering all budget transfers for December 2014.

**General Counsel's Report**

**16. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**

- a. **Initiation of Litigation – Bank of America, N.A. – MSW 4001520.000/EO 4698 – Failure to Maintain Surface Water Management System – Pasco County**  
Staff recommended the Board authorize the initiation of litigation against Bank of America, N.A., and any other appropriate parties to obtain compliance, to recover an administrative fine/civil penalty, and to recover District enforcement costs, litigation costs and attorney's fees.

**Moved to Discussion:**

- b. ~~**Initiation of Litigation – Well Construction Permit Conditions Violation and Unauthorized Construction of a Public Supply Well – David N. Howard – License No. 9354 – Hillsborough County**~~  
~~Staff recommended the Board authorize the initiation of litigation against David N. Howard, and any other appropriate parties, to obtain compliance, to recover an administrative fine/civil penalty for any violations, and to recover District enforcement costs, court costs and attorney fees.~~
- c. **Initiation of Litigation – Failure to Complete Mitigation for Impacted Wetlands – Ridge Heights Subdivision, Bountiful Lands, Inc. – ERP No. 43008020.001 – Polk County**  
Staff recommended the Board authorize the initiation of litigation against Bountiful Lands, Inc., to obtain compliance, to recover an administrative fine and/or civil penalty, and to recover District enforcement costs, litigation costs, and attorney's fees.

**17. Rulemaking**

- a. **Initiation of Rulemaking and Approval of Final Rule Language to Amend the Water Use Permit Applicant's Handbook to Establish an Exception from Certain Water Use Permitting Requirements for the Board of Trustees of the Internal Improvement Trust Fund Under Certain Circumstances**  
Staff recommended the Board initiate rulemaking and approve final rule language to amend Southwest Florida Water Management District Water Use Permit Applicant's Handbook, Part B, Section 1.4.13, and corresponding amendments to Chapter 40D-2, F.A.C.

**Executive Director's Report**

**18. Approve Governing Board Meeting Minutes – December 16, 2014**

Staff recommended the Board approve the December 16, 2014 meeting minutes.

**A motion was made, seconded to approve the Consent Agenda as amended. Motion carried unanimously. (Audio – 4:05)**

**Chair Babb relinquished the gavel to Finance Committee Chair Dunbar who called the Committee meeting to order.**

**Finance/Outreach & Planning Committee**

***Discussion Items***

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

**20. Investment Strategy Quarterly Update**

The District's financial investment advisors, Messrs. Richard Pengally and John Grady, provided a quarterly update of the investment portfolio as required by Board Policy 130-3. Board member Beruff provided information from the Sarasota Manatee Airport Authority investment information as a comparison for fund performances. Board Member Dunbar stated the performance of funds

is dictated by two criteria; duration and risk. Discussion ensued which included investigating the options of lessening investment constraints that would be allow under the District policy.

Board member Maggard stated he has some concerns on the returns versus the fees that are being paid.

Governing Board Chair Babb asked what recommendations could be made to the District portfolio based on the constraints from District policy to improve investment returns.

Mr. Pengally responded he understood the request and would be willing to evaluate and advise the District on taking more interest rate risks in the portfolio.

Board member Dunbar suggested the financial advisors provide recommendations regarding changes that could be made to District policies, within the constraints of regulations, to accommodate Governing Board Chair Babb's request.

Board member Moran asked if a future presentation can be made to explain how fees are calculated. Mr. Pengally responded in the affirmative and added the fees are calculated as a fixed percentage of the assets under management.

Board member Beruff asked if the financial advisors could review the information he provided from the Sarasota Manatee Airport Authority to determine if there are investment opportunities that may benefit the District. Board member Dunbar responded in the affirmative.

Mr. John Grady proposed comparing the District portfolio to the Sarasota Manatee Airport authority and providing a recommendation on this information.

Board member Jeff Adams asked if a comparison could also be provided with other water management districts. Mr. Grady responded in the affirmative.

Staff recommended the Board accept and place on file the District's Quarterly Investment Reports for the quarter ended December 31, 2014.

21. **Legislative Update**

Ms. Colleen Thayer, Public Affairs Bureau Chief, provided a legislative update. She stated the session begins March 3, but committee meetings have already begun. Ms. Thayer outlined budget information from the Florida Department of Environmental Protection (FDEP). She stated water policy will dominate the session. Ms. Thayer commented that the Florida Department of Agriculture and Consumer Services (FDACS) outlined a broad statewide strategy for water supply and quantity issues. Amendment one funding will also be a dominate part of discussions. She updated the Board on a presentation made by Executive Director, Robert Beltran to the Senate Environmental, Preservation & Conservation Committee.

Governing Board Chair Babb asked if this information would be provided monthly during legislative session. Ms. Thayer responded in the affirmative.

Governing Board Chair Babb asked if there was a positive dialogue occurring between the water management districts, the FDEP and the FDACS. Ms. Thayer responded in the affirmative.

Executive Director Beltran added there is a weekly report produced once session starts.

Board member Senft commented about some communication issues regarding bills that are being drafted by FDACS.

Board member Maggard asked if the Board can be informed of what municipalities are requesting within the district. Ms. Thayer responded in the affirmative.

Chair Dunbar asked about some concerns that were raised by Commissioner Putnam regarding the federal government over reach. Ms. Thayer responded Commissioner Putnam did not specifically address that issue.

This item is provided for the Committee's information and no action is required.

***Submit & File Reports***

**22. Status of the 2015 Consolidated Annual Report**

This was provided for information only.

**Routine Reports**

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

- 23. **Treasurer's Report and Payment Register**
- 24. **Monthly Financial Statement**
- 25. **Monthly Cash Balances by Fiscal Year**
- 26. **Comprehensive Plan Amendments and Related Reviews Report**
- 27. **Development of Regional Impact Activity Report**
- 28. **Significant Activities**

**Committee Chair Dunbar adjourned the Committee meeting, and relinquished the gavel to the Resource Management Committee Chair Senft, who called the Committee meeting to order.**  
(Audio – 31:57)

***Resource Management Committee***

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

**30. TECO Regional Reclaimed Water Partnership Initiative – Phase 1 Interconnect to Lakeland/Polk County/Mulberry (H076A) – Out-of-Cycle Funding Request**

Mr. Mark Hammond, Resource Management Division Director, presented information on the TECO regional reclaimed water partnership initiative. Information included: a map outlining the project; project components; approved budget; project funding; out-of-cycle funding request; and proposed budget. Mr. Hammond stated this request is for design, permitting and construction of a transmission line and other components that will treat and transport ten million gallons a day of reclaimed water to a TECO power plant in Southwest Polk County. This will be expandable up to 17 million gallons a day. The transmission lines will come from the City of Lakeland's wetlands, where reclaimed water is discharged; the southwest facility in Polk County; and a transmission line from Mulberry.

Board member Senft asked for clarification that the out-of-cycle funding request is a result of a policy change rather than insufficient planning on the part of the cooperator. Mr. Hammond responded in the affirmative.

Board member Beruff asked for clarification on the funding request. Mr. Hammond responded that staff would recommend the Board only consider the increase costs for the treatment/storage components and not for the design/permitting/CEI and the Mulberry line; and the Polk line would be considered in the FY2016 Cooperative Funding cycle and discussed at the February and April 2015 regional committees. Discussion ensued.

Mr. David Lukcic, representative from TECO, thanked the Board and District staff for the cooperation and support on the project.

Staff recommendation:

1. Approve the FY2015 out-of-cycle funding request for the \$4,700,000 requested by TECO;
2. Approve the agreement replacement to modify project sizing, routing and components; and increase project flows and benefits;
3. Increase the total project budget by \$15,230,748; increase the District commitment by \$6,600,000 for a total District commitment of \$44,601,957 in ad valorem and \$3,526,063 WRAP; \$4,700,000 would come from FY2015 and \$1,900,000 would be considered in the FY2016 Budget
4. Extend the project completion date one year from November 1, 2016, to November 1, 2017; and extend the contract period from December 31, 2016, to December 31, 2017; and
5. Authorize the executive director or designee to execute the new agreement with TECO for the Regional Reclaimed Water Partnership project.

**A motion was made and seconded. Motion carried unanimously.** (Audio – 55:00)

**31. Withlacoochee River Watershed Initiative**

This item is for the Board's information only, and no action is required.

Mr. Hammond did clarify that this is an information item only, however, he wanted to make the Board aware that technical information will be presented at public meetings and any input received will be presented at a future Board meeting.

Dr. Mark Fulkerson, Senior Professional Engineer, provided a presentation on the Withlacoochee River watershed initiative. Information included: a map of the watershed; historical information; outreach efforts; model scenarios; and the tentative outreach schedule. Mr. Fulkerson stated follow up on this item will be presented at the October Governing Board meeting.

Board member Maggard asked if recommendations will be presented at the October Board meeting. Mr. Fulkerson responded in the affirmative.

Mr. Chester Bradshaw provided historical information on the Green Swamp watershed and addressed concerns on the watershed study. Discussion ensued.

**Submit & File Reports**

**32. Five-Year Water Resource Development Work Plan**

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

Mr. Hammond stated this report has been finalized and will be included in the Consolidated Report.

**Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

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

Mr. Martyn Johnson addressed his concerns regarding the intent of the Minimum Flows and Levels (MFLs) rules as related to the Chassahowitzka and Homosassa Rivers. Mr. Johnson expressed concerns regarding the inability to receive clarification of the MFL rules and the gauges inability to assess groundwater withdrawals.

Mr. Hammond provided historical information on outreach efforts that have been made with the residents in the area of the rivers. He agreed to provide further outreach efforts.

Board member Senft thanked Mr. Johnson for the information and stated staff would investigate his concerns.

**34. Significant Water Resource and Development Projects**

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

**Committee Chair Senft adjourned the Committee meeting, and relinquished the gavel to the Regulation Committee Chair Moran, who called the Committee meeting to order. (Audio 1:24)**

***Regulation Committee***

***Discussion Items***

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

None

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

None

***Submit & File Reports - None***

***Routine Reports***

*The following items are provided for the Committee's information, and no action is required.*

**37. Overpumpage Report for January 2015**

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

**Committee Chair Moran adjourned the Committee meeting, and relinquished the gavel to Operations, Lands and Resource Management Committee Chair Maggard, who call the committee to order. (Audio -1:25)**

***Operations, Lands and Resource Monitoring Committee***

***Discussion Items***

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

None

**40. Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Hydrologic Data Manager, provided a presentation on the hydrologic conditions. He indicated hydrologic conditions are positive. Rainfall for December was above in the northern and central regions, but drier than normal in the southern region. The trend for twelve month rainfall is at 3.7 inches above the long term mean. The groundwater levels in the northern and central counties are above normal; and southern counties is in the upper range of normal.

Mr. Kinsman stated lakes improved. He indicated rivers are experiencing above normal flows. Public supply resources are growing and climate conditions are considered normal. He stated the Bill Young Reservoir has been filled with three billion gallons.

***Submit & File Reports - None***

***Routine Reports***

*The following items are provided for the Committee's information, and no action is required.*

**41. Structure Operations**

**42. Significant Activities**

**Committee Chair Maggard adjourned the Committee meeting and relinquished the gavel to Chair Babb. (Audio – 1:30)**



## **General Counsel's Report**

### **Discussion Items**

#### **43. Consent Item(s) Moved for Discussion**

##### **6. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**

##### **b. Initiation of Litigation – Well Construction Permit Conditions Violation and Unauthorized Construction of a Public Supply Well – David N. Howard – License No. 9354 – Hillsborough County**

Ms. Kate Zamboni, Senior Attorney, presented information on a well construction permit conditions violations against well driller, Mr. David Howard.

Mr. David Howard, well driller contractor, provided information regarding his violations. Discussion ensued. Ms. Laura Donaldson and Ms. Zamboni clarified information regarding Mr. Howard refusing to sign a consent order. Discussion ensued which involved clarification of violations, points to Mr. Howard's license, fines and possible suspense of license. Ms. Donaldson explained the process of an administrative complaint order.

Staff recommended the Board authorize the initiation of litigation against David N. Howard, and any other appropriate parties, to obtain compliance, to recover an administrative fine/civil penalty for any violations, and to recover District enforcement costs, court costs and attorney fees.

**A motion was made, seconded to approve the staff's recommendation. Motion carried unanimously. (Audio – 1:51)**

#### **44. Annual Sunshine Law Refresher**

Ms. Kate Zamboni, Senior Attorney, presented information regarding the government in the Sunshine Law. She outlined three requirements that must be met if a meeting is determined to be sunshine: public access to meetings of public boards and commissions; reasonable notice must be given; and minutes of meetings must be recorded, not necessarily transcribed into minutes. A sunshine meeting is defined as: any communication between two or more governing board members regarding a matter that may come before the board for action; must have two board members involved; board members are not prohibited from communication with non-board members or staff. Ms. Zamboni provided a definition of district business as anything that is reasonably anticipated to be presented to the board in the foreseeable future.

Board member Maggard asked if issues addressed previously are included. Ms. Zamboni suggested consulting with General Counsel if this occurs.

Ms. Zamboni stressed to be aware of situations that may give the appearance of Sunshine Law violations. Ms. Zamboni gave examples of Sunshine Law violations.

Ms. Zamboni gave a definition of an exception called a "shade meeting". This is a meeting written into the statute for attorney/client sessions. It allows temporary relief from the Sunshine Law; it is not a meeting in the dark. There are six requirements for a meeting to be determined to be a shade meeting: litigation must be pending; the general counsel must advise the governing board that advice is desired in a sunshine meeting; the subject matters is not regarding the litigation, it is confined to settlement negotiations and strategy sessions regarding expenditure for litigation

funds; the session must be recorded by a court reporter and transcribed; public notice must be given; no action is taken, it is strictly for advising.

Ms. Zamboni stressed to be aware of situations that may give the appearance of Sunshine Law violations. Ms. Zamboni gave examples of Sunshine Law violations.

Ms. Zamboni stated that sunshine meetings can be held virtually as long as the public is aware of the medium and is able to access the meeting.

Ms. Zamboni outlined public records law and record retention policies and penalties associated with violating the Public Records Act.

Ms. Zamboni provided the Board with "Ten Commandments" for the Sunshine Law.

**Submit & File Reports – None**

**Routine Reports**

*The following items are provided for the Committee's information, and no action is required.*

- 45. Litigation Report – January 2015
- 46. Rulemaking Update – January 2015

**Committee Liaison Reports**

- 47. Well Driller's Advisory Committee Report  
Written report provided to Board Members.

- 48. Other Committee/Liaison Reports  
None

**Executive Director's Report**

- 49. Executive Director's Report  
Mr. Beltran thanked staff for their work and Dr. Mark Fulkerson for his work with on the Withlacoochee River Watershed.

**Chair's Report**

- 50. Employee Milestones  
Chair Babb noted staff employees who have reached five-year increments in service to the District. He recognized staff members who have reached 25-year milestones, and thanked them for their service. This item was provided for the Board's information, and no action was required.

The meeting recessed at 11:13 p.m.

- 51. Other

**CLOSED DOOR-ATTORNEY-CLIENT SESSION – SWFWMD V. PARSONS WATER AND INFRASTRUCTURE, INC.**

No formal Governing Board action was taken during the closed-door attorney-client session.

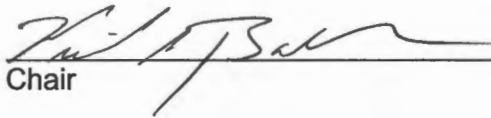
**CLOSED DOOR-ATTORNEY-CLIENT SESSION – RIVERSIDE HEIGHTS HOLDINGS, LLC V. SWFWMD, HILLSBOROUGH COUNTY SCHOOL BOARD**

No formal Governing Board action was taken during the closed-door attorney-client session.

The next Governing Board meeting is scheduled for February 24 in the Sarasota Service Office. March 31, be in the Brooksville Office and the April 28 meeting will be in Haines City.

There being no further business to come before the Board, a motion was made and seconded to adjourn the meeting. Motion carried.

The meeting adjourned at 1:20 p.m.

  
Chair

Attest:

  
Treasurer