

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TARPON SPRINGS, FLORIDA FEBRUARY 22, 2010

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 12:30 p.m. on February 22, 2010, at the Brooker Creek Preserve Environmental Education Center in Tarpon Springs. 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

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 Secretary

LuAnne Stout, Administrative Coordinator
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 files 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 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, and 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 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 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.

3. **Additions/Deletions to Agenda**

Mr. Moore said the following two items will be considered as noted below:

**Consent Agenda
Regulation Committee**

The following items were moved from Regulation Committee Discussion Items and added to the Consent Agenda for consideration:

23. Approve Changes to Proposed 20-Year Permit Rules in Response to Comments from the Joint Administrative Procedures Committee
24. Approve Changes to Proposed Enhanced Water Conservation Rules in Response to Comments from the Joint Administrative Procedures Committee

Hearing no objection, Chair Pressman accepted the changes to the meeting agenda. (0:00:00/0:03:40)

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

Chair Pressman noted that a card was submitted requesting to speak to the Board.

Mr. David Gore, resident of Polk County, noted that he attended the December 15, 2009, meeting and reiterated his concerns about current impacts to water supplies. He provided copies to the Board of information he has prepared. (0:03:40/0:07:00)

Consent Agenda

Item 13 was moved for consideration on the Outreach & Planning Committee agenda. Items 23 and 24 were moved from the Regulation Committee agenda for consideration on the Consent Agenda.

Regulation Committee

5. **Initiate and Approve Rulemaking to Establish an Exemption from Environmental Resource Permitting Rules for Minor Activities**

Staff recommended to approve the initiation of rulemaking to amend Rules 40D-4.021, 40D-4.051 and 40D-400.475, Florida Administrative Code (F.A.C.), regarding an exemption from ERP rules for minor activities.

23. **Approve Changes to Proposed 20-Year Permit Rules in Response to Comments from the Joint Administrative Procedures Committee**

Staff recommended to approve the changes and authorize staff to complete the rule adoption process.

24. **Approve Changes to Proposed Enhanced Water Conservation Rules in Response to Comments from the Joint Administrative Procedures Committee**

Staff recommended to approve the changes and authorize staff to complete the rule adoption process.

Resource Management Committee

6. **Appraisal, Purchase/Sale Agreement and Memorandum of Agreement with Pasco County – Cypress Creek Project, SWF Parcel No. 13-500-389**

Staff recommended to (1) accept appraisal; (2) approve Purchase/Sale Agreement; (3) approve the Memorandum of Agreement; and (4) designate SWF Parcel No. 13-500-389 as having been acquired for conservation purposes.

7. **Accept Land Donation – Flying Eagle Preserve, SWF Parcel No. 19-334-143**

Staff recommended to (1) accept the donation; and (2) designate parcel as having been acquired for conservation purposes.

8. **First Amendment to the Agreement with Florida Fish and Wildlife Conservation Commission for the Potts Preserve Wildlife Management Area, SWF Parcel No. 19-484-119X**

Staff recommended to approve the amendment to the agreement with the Florida Fish and Wildlife Conservation Commission for the Potts Preserve Wildlife Management Area, SWF Parcel No. 19-484-119X.

9. **Exchange Agreement – Potts Preserve, SWF Parcel Nos. 19-484-126S and 19-484-123**
Staff recommended to (1) accept the appraisals; (2) approve the exchange agreement; (3) declare SWF Parcel Nos. 19-484-126S as surplus and no longer needed for conservation purposes (two-thirds majority required) and convey the property to John Thomas Goodgame, Sr. and John Thomas Goodgame, Jr.; and (4) designate SWF Parcel No. 19-484-123 as having been acquired for conservation purposes.
 10. **Facilitating Agricultural Resource Management Systems (FARMS)**
 - a. **C & D Fruit and Vegetable Company, Inc. – Manatee County**
Staff recommended to (1) approve the C & D Fruit and Vegetable Company, Inc. project for a not-to-exceed project reimbursement of \$ 225,000 with \$56,250 provided by the Manasota Basin Board, \$56,250 provided by the Governing Board, and \$112,500 provided from State Appropriations; (2) authorize the transfer of \$56,250 from fund 021 H017 Manasota Basin Board FARMS funds, \$56,250 from fund 010 H017 Governing Board FARMS funds, and \$112,500 from the State Appropriations allocated to fund 021 H017 FARMS funds, to 010 H599, C & D Fruit and Vegetable Company, Inc. project fund; and (3) authorize the Executive Director to execute the agreement.
 - b. **GoodMach Growers – Hillsborough County**
Staff recommended to (1) approve the GoodMach Growers, Inc. project for a not to exceed reimbursement of \$142,751 with \$35,688 provided by the Alafia River Basin Board, \$35,688 provided by the Governing Board, and \$71,375 provided from State Appropriations to the Governing Board; (2) authorize the transfer of \$35,688 from fund 011 H017 Alafia River Basin FARMS funds, \$35,688 from fund 010 H017 Governing Board FARMS funds, and \$71,375 from the State Appropriations allocated to fund 010 H017 FARMS funds, to the H596, GoodMach Growers, Inc. project fund; and (3) authorize the Executive Director to execute the agreement.
 - c. **Sun-Fire Nurseries, LLC – Sarasota County**
Staff recommended to (1) approve the Sun-Fire Nurseries, LLC project for a not-to-exceed project reimbursement of \$26,000 with \$6,500 provided by the Manasota Basin Board, \$6,500 provided by the Governing Board, and \$13,000 provided from State Appropriations; (2) authorize the transfer of \$6,500 from fund 021 H017 Manasota Basin Board FARMS funds, \$6,500 from fund 010 H017 Governing Board FARMS funds, and \$13,000 from State Appropriations allocated to fund 021 H017 FARMS funds, to 010 H597, Sun-Fire Nurseries, LLC, project fund; and (3) authorize the Executive Director to execute the agreement.
 11. **Authorize Submission of Preliminary Flood Insurance Rate Maps for the East Pasco Watersheds in Pasco County to the Federal Emergency Management Agency**
Staff recommended to authorize staff to submit the preliminary Flood Insurance Rate Map panels for the East Pasco watersheds in Pasco County to Federal Emergency Management Agency.
 12. **Revise Board Policy 610-1, Land Acquisition, to Revise Appraisal Requirements**
Staff recommended to approve revisions to Board Policy 610-1, Land Acquisition.
- Outreach & Planning Committee**
13. **Approve 2010 Consolidated Annual Report**
This item was considered on the Outreach & Planning Committee agenda.
- Finance & Administration Committee**
14. **Board Travel**
No action was required.
 15. **Budget Transfer Report**
Staff recommended to approve the Budget Transfer Report covering all budget transfers for January 2010.
- General Counsel's Report**
16. **Approve Joint Amended Deed of Conservation Easement and Agreement for the Upper Coastal Mitigation Bank**
Staff recommended to approve and accept the Joint Amended Deed of Conservation Easement and Agreement for the Upper Coastal Mitigation Bank.

Executive Director's Report

17. Approve January 26, 2010 Governing Board Minutes

Staff recommended to approve the minutes.

Following consideration, **Ms. Parks moved, seconded by Mr. Gramling, to approve the Consent Agenda as amended. Motion carried unanimously. (0:07:00/0:07:35)**

Executive Director's Report

18. January 2010 Freeze Event Update

Mr. Moore noted this item is an update to the discussion that occurred during the January 26, 2010 Governing Board meeting. He noted that the 60 well owners who did not have functional wells now have water or about to have a working well.

Mr. Owen provided a status report of staff's actions in dealing with the unprecedented January 3-13, 2010 frost/freeze event. In order to effectuate use of the transferred funds, the Executive Director issued an emergency order on January 27, 2010. Executive Director Order No. SWF 2010-004 authorizes staff to undertake necessary actions to expeditiously remediate or replace any well that is still not functioning that will not or cannot be mitigated by a responsible water use permittee. In addition to wells which are not in water use permittee's mitigation area, the funds can be used to remediate or replace any well within a water use permittee's mitigation area if the responsible permittee has not appropriately mitigated the well within 15 days of being notified by the District. As of January 28, 2010, staff had visited each property without a functional well and, upon receiving permission from the well owner, was contacting a qualified well contractor to initiate appropriate remediation or replacement in accordance with Executive Director Order No. SWF 0210-004. Contractor work on some wells was scheduled to begin on January 29, 2010. The District's Well Construction Regulation Manager or his designee is reviewing each proposal for major repair or replacement to assure that only appropriate work will be done, and field staff will be supervising each contractor job. Staff is also required to pursue reimbursement for the funds expended to remediate or replace wells from each responsible permittee.

Mr. Owen said staff has resolved almost all of the dry well complaints as of last Friday. Staff was successful in working with Hillsborough County's automated calling capabilities to contact residents regarding freeze events. To garner further input, the first public workshop was held in Plant City on February 17, 2010. Staff has been in contact with residents who had inoperable wells to keep apprised of the wells' status. For those few who are still remaining without water, the District may address their wells absent of the ability of the permittee.

Mr. Owen reviewed staff's actions to address well complaints. For residents who did not respond to phone calls, staff has sent letters requesting them to contact the District by a date certain; otherwise, the complaint will be considered closed. A few additional complaints were received last week due to residents being out of state, dealing with a family emergency out of state, etc. Some complaints are questionable due to a possible way to repair a problem well not attributable to the frost/freeze event. Staff is suggesting a cut-off date of March 2, 2010, to receive dry well reports associated with this frost/freeze event.

Following consideration, **Mr. Gramling moved, seconded by Ms. Parks, to set March 2, 2010, as the cut-off date for accepting new well complaints associated with the frost/freeze event. Motion carried unanimously. (0:07:35/0:20:10)**

Mr. Owen said, in coordination with Hillsborough County, the area delineated around Plant City/Dover has been identified for automated phone calling to alert residents to shut off wells due to a predicted freeze event. The District's website is also a communication tool.

Besides the public workshop, Mr. Moore has spoken to the Plant City Chamber of Commerce and other entities to share the District's information with key representatives in the community.

Mr. Owen reviewed the workshop invitees who participated in the first workshop and noted that this workshop was primarily for listening to the area's citizens. Over 300 people attended and a summary of the workshop will be available. Sinkhole concerns included damage to homes, roads and property; potential for more damage; no insurance or damage not covered; out-of-pocket cost due to high insurance deductibles; other financial hardships; and no one agency is "in charge" (prevention or response). Well concerns included too much water is being pumped by farmers; unfair to be without water, even temporarily; have (farmers) vs. have-nots (residents); not being reimbursed if not in a mitigation area; other financial hardships; and the District is to blame for what happened because it permitted the pumping. At least two more public workshops are anticipated.

In response to Ms. Whitehead's question, Mr. Owen said that any well constructed consistent with the new requirements and the pump depth set at the new requirement, were not impacted by this frost/freeze event. If the District finds it necessary to replace a well, the new well is being constructed consistent with the new standards.

Following consideration, **Mr. Joerger moved, seconded by Mr. Senft, to concur with issuance of Executive Director Order No. SWF 2010-004 regarding the impact of the January 2010 freeze event on wells. Motion carried unanimously. (0:20:10/0:30:12)**

Mr. Gramling voiced his concern that the announcement in the use of the calling system was probably premature and encouraged staff to meet with the industry groups to develop a protocol for the District to use when contacting residents. Ms. Rovira-Forino suggested an evaluation form be prepared for residents who filed complaints to quantify the kind of service and response the District provided to the community. In response to Mr. Joerger's question about a survey, Mr. Owen said staff would contact people who the District provided service to regarding their wells. Mr. Moore said the feedback received by staff in the Tampa office has only been positive. Mr. Owen said there are four wells not operating for which the District may repair and then attempt to recover those funds.

In response to Ms. Parks' question regarding sinkhole concerns, Mr. Owen said when a sinkhole is reported, District staff visits the site to document whether it is a sinkhole. Staff then coordinates closely with the U. S. Geological Survey who is the repository of all information dealing with sinkholes. Mr. Owen said the District's current policy is that, if it is in a roadway or public area that is owned or maintained by a public entity, it is the entity's responsibility. If it impacted a private residence or other structure, homeowners are responsible to work with their insurance company. Ms. Parks said this is not unique to just this District and perhaps it needs a broader view especially when people report an estimate of \$650,000 to fill a hole which does not include remediation. Mr. Tharp said an example he heard about was a sinkhole that did not affect the home but no one knew if it would grow larger and needed assistance in determining how to repair since insurance would not help because the home was not involved. Chair Pressman said this is an area that staff needs to consider how all levels of government should respond to these events.

Ms. Closshey said this will be a topic of discussion for the experts. She would like to see involvement by the other governmental agencies issuing permits, certificates of occupancy, and all the other processes above and beyond the District's participation. Mr. Beswick asked whether the panel experts give recommendations in reference to the permittees who had the most exposure to reimbursement and making equitable decisions for all permittees who are impacted. Mr. Owen said staff anticipates that being one of the main topics and hopes to reach a consensus from the stakeholder representatives and other parties involved. Mr. Beswick asked if that collective decision will help in this event or from this point forward. Mr. Owen said the farmers and growers may agree that a

different approach to allocating costs for their responsible activities is appropriate, they may reimburse the few growers who bore the brunt of this event. In response to Ms. Whitehead's question, Mr. Gramling said there is no insurance that can be purchased. Mr. Beswick asked whether the mitigated areas outside the zones of influence of existing permittees will be redirected to some type of responsibility within permittees in the area. Mr. Owen said that is an option and noted that, in the St. Johns River Water Management District, the fern industry created a fund to reimburse well complaints. (0:30:12/0:46:30)

Chair Pressman noted that a card was submitted requesting to speak to the Board.

Ms. Janet Daughtery, former Governing Board member and resident of Hillsborough County, said she attended today's meeting to thank staff. She provided an example of an area filled by yard trash and then a complaint was filed. She expressed her appreciation to Richard Owen, Adrienne Vining, Eric DeHaven and his staff, Alba Más, Ramzi Chehaib, and Tampa's regulatory staff. She especially thanked Mark Luchte and Jeff Whealton who have been at the front line as soldiers working with the District, Hillsborough County Environmental Protection Commission, Institute of Food and Agricultural Sciences, Agriculture Economic Development Planning Growth and Management, Hillsborough County Stormwater Department and U.S. Department of Agriculture. She said that Messrs. Luchte and Whealton have developed best management practices that will be the state of the art for composting in the next two years; in 2012, all yard trash will have to be composted. She said the District is an active participant and good things are happening to keep people from dumping in fields. She will provide Mr. Moore with additional information. (0:46:30/0:49:50)

19. **Status of Final Payments to Tampa Bay Water for Final Testing of the Tampa Bay Desalination Facility**

Mr. Moore provided an update as to the status of the final payments to Tampa Bay Water concerning the Tampa Bay Desalination Plant. There are two payments involved. The first is the \$21.25 million Tampa Bay Water would receive once it produces at least 25 million gallons per day (mgd) for four consecutive months prior to the end of 2010. The second is the payment Tampa Bay Water would receive of the interest accrued since the execution of the 2005 Settlement Agreement. This payment is due to Tampa Bay Water once it operates the facility to produce at least 20 mgd on an average annual basis. Mr. Moore recognized Messrs. Bilenky, Ken Herd and Gene Heath for their efforts in working with Tampa Bay Water. Chair Pressman offered his appreciation to all staff who were involved in this project. He especially thanked Mr. Moore for his endeavors with Tampa Bay Water and this project. In response to Mr. Senft's question, Mr. Bilenky said formal action by the Board is not required. (0:49:50/0:52:45)

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

Chair Pressman relinquished the gavel to Regulation Committee Chair Senft.

Regulation Committee

Items 23 and 24 were approved as part of the Consent Agenda.

Discussion Items

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

21. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said January historically marks the fourth month of the eight-month dry season and provisional rainfall totals for the month were normal or above-normal in all regions of the District. Analysis of dry season rainfall shows October through January totals to be above the historic mean in all regions of the District. Rainfall was regionally variable during the month and associated with the passage of several cold front systems moving across the Florida peninsula. An

unprecedented cold weather event occurred from January 3-13, bringing prolonged freezing temperatures to many areas of the District that caused agricultural interests to pump groundwater for crop protection. Groundwater pumping during the cold weather event caused severe (but temporary) aquifer level declines in parts of Hillsborough and Polk counties that resulted in numerous dry wells complaints and extensive sinkhole development. The provisional 12-month District-wide rainfall deficit improved during January, ending the month approximately 0.8 inch below the long-term average. The 24- and 36-month cumulative rainfall deficits improved and are approximately 7.1 and 17.4 inches, respectively. Hydrologic indicators saw mixed response throughout the District, showing only slight changes during January. Groundwater levels ended the month within the normal range of historic values, while streamflow in regional index rivers remain at below-normal levels in the northern region and within the normal range in the central and southern regions. Regional lake levels remain below normal levels throughout the District. Staff will continue to closely monitor conditions in accordance with the District's updated Water Shortage Plan, including any necessary supplemental analysis of pertinent data. (0:52:45/1:04:44)

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

Chair Pressman noted that a card was submitted requesting to speak to the Board.

Mr. David Gore, resident of Polk County, said the problem he has with this hydrologic report is it basically gives an idea of the quantity of water available at the moment. He said it bothers him that there is lacking information about surficial water which can vary significantly. He said he feels this is why surficial water is not being protected. He said he does not know the answer, but these hydrologic condition reports do not show a true situation on why the water is leaving, why there are water shortages, etc. He provided a copy to each Board member of a one-page story relating to water and showed Board members the framed item he brought with him. (1:04:44/1:09:40)

In response to Chair Senft's request, Mr. Owen said Mr. Gore has been providing input to the District on a consistent basis for 15 to 20 years. He noted Mr. Gore's emphasis on protecting the surficial aquifer as the source of water supply is understood. He said the District has programs in place moving forward to protect that as a component of District resources. (1:09:40/1:10:50)

22. **Consider Modified Phase II Water Shortage Order**

Mr. Owen said Modified Phase II water shortage restrictions are currently in effect for all water uses throughout most of the District, pursuant to Water Shortage Order No. SWF 07-02, except in communities where more stringent restrictions are in effect. Water Shortage Order No. SWF 07-02 was issued in January 2007 and is currently scheduled to expire on February 28, 2010 unless the Governing Board takes action. As of January 28, 2010, based on improved hydrologic conditions and other pertinent factors considered in accordance with the District's Water Shortage Plan (Rule 40D-21, Florida Administrative Code (F.A.C.)), the Governing Board may be able to allow the current Modified Phase II Order to expire. If the current Order is allowed to expire, users would be allowed to follow more flexible Year-Round Water Conservation Measures (Rule 40D-22, F.A.C.) unless subject to more stringent local water restriction ordinances.

Mr. Owen said, since hydrologic conditions have improved, staff feels it is appropriate to recommend that these water shortage restrictions be allowed to expire. The Year-Round Measures, which were recently updated for the sake of greater statewide consistency, allow for a maximum of twice-per-week lawn watering instead of the current once-per-week schedule. Chair Senft noted that, as mentioned earlier, the District is behind 28.5 inches of rainfall. Mr. Gramling said he feels this is the wrong time to allow the restrictions to expire and he certainly has been a champion of having a system based on the condition

of the hydrology as the trigger for restrictions. He recommended continuing restrictions through June 30, 2010, which is the traditional start of the rainy season.

Following consideration, **Mr. Gramling moved, seconded by Ms. Rovira-Forino, to extend the Water Shortage Order No. SWF 07-02 through June 30, 2010.**

Mr. Beswick said under the current rule, there is not suppose to be pressure washing but this is the time of year when business increases. During these economic times, he said he would not like to see those businesses impacted. Mr. Owen said the restrictions on pressure washing can be removed.

Mr. Gramling amended his motion to extend the Water Shortage Order No. SWF 07-02 through June 30, 2010; and exempting pressure washing. Ms. Rovira-Forino seconded the amended motion. (1:10:50/1:16:00)

Mr. Tharp said he supports the motion but, once a restriction is released and then it has to be imposed again, the educational process must also be done. In response to Ms. Park's comment about changing messaging, Mr. Michael Molligan, Director, Communications Department, said the challenge is not to create an education problem and yet maintain credibility of the water shortage rules being based on the current conditions. Mr. Joerger asked whether residential water users are allowed to use water to protect landscaping during a frost/freeze event. Mr. Owen said he did not think there are rules that prohibit the practice, but it is not a best management practice recommended for landscaping. Mr. Gramling addressed this issue and noted residential irrigation systems usually do not have the capability to provide the amount of water needed for protection.

Chair Senft called the question and the motion carried unanimously. (1:16:00/1:20:00)

23. **Approve Changes to Proposed 20-Year Permit Rules in Response to Comments from the Joint Administrative Procedures Committee**

This item was approved during consideration of the Consent Agenda.

24. **Approve Changes to Proposed Enhanced Water Conservation Rules in Response to Comments from the Joint Administrative Procedures Committee**

This item was approved during consideration of the Consent Agenda.

25. **Improvements to the Handling of Potential Over Pumpage**

Mr. Ken Weber, Water Use Program Director, Strategic Program Office, said the Governing Board has, in the past, received a report from staff regarding the process for determining over pumpage by Water Use Permittees. This procedure is applied on a consistent approach to over pumpage situations, and the Board receives a report on over pumpage cases in its monthly meeting packet. Mr. Weber provided a brief overview of the opportunities identified from staff to enhance how over pumpage is handled. He noted that the purpose of this item was to inform the Board of changes prior to implementation. The enhancements include that, where a permittee undertakes a good-faith effort to reduce pumpage below the annual average permitted quantity and achieves that on a monthly basis but continues to be above the 12-month running average, enforcement should not be pursued except where the over pumpage is repeated, or causes adverse impacts. If a permittee were to come back into compliance on a monthly basis for only one month, and then continue to exceed both the monthly and permitted average annual quantity, enforcement would be pursued. Additionally, if the over pumpage is within five percent% of the permitted quantity, or 50,000 gallons per day, whichever is less, this will be considered nominal and enforcement by the Office of General Counsel not be pursued unless it occurs over a sustained period or reoccurs. Regulation staff will continue to work with these permittees to bring them into compliance.

The Board's consensus was that staff uses a balanced approach with permittees.
(1:20:00/1:30:00)

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

26. **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.

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

Routine Reports

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

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

29. **Overpumpage Report**

30. **Resource Regulation Significant Initiatives**

(1:30:00/1:31:12)

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

Resource Management Committee

Discussion Items

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

32. **Establish Numeric Water Quality Standards for Nutrients**

Mr. Wirth said the District has a group of staff who are examining potential effects of this proposed rule on District's operations and projects. He said the District is coordinating with the other water management districts in reviewing the proposed rule, along with the National Estuary Program, Florida Department of Environmental Protection (FDEP) and local governments. He said comments and concerns on the rule are consistent among the agencies, and final comments are due to the U. S. Environmental Protection Agency (EPA) by March 29, 2010. EPA scheduled three public hearings in Florida during the 60-day comment period following criteria publication. The meetings were held on February 16, 2010 in Tallahassee; February 17, 2010 in Orlando; and February 18, 2010 in West Palm Beach.

Ms. Veronica Crow, Environmental Section Manager, Resource Projects Department, provided an overview of the EPA's recently released proposal on numeric nutrient criteria for Florida. Under the Clean Water Act (CWA) Section 303, states are required to establish water quality standards, which define the amounts of pollutants (in either numeric or narrative form) that waters can contain without impairment of their designated beneficial uses. On January 15, 2010, EPA proposed water quality standards in the State of Florida that would set a series of numeric limits on the amount of phosphorus and nitrogen allowed in Florida's lakes, rivers, streams, springs and canals. The proposed standards comply with the terms of the August 2009 consent decree between EPA and the Florida Wildlife Federation.

Ms. Crow provided an overview of the impacts to the District's Environmental Resource Permit Program. She said EPA's proposed criteria impacts lakes, streams and springs; canals (South Florida only); Federal Site-Specific Alternative Criteria; and restoration standards. She reviewed the expected potential impact to the impaired waters list and economic impacts. She noted the main concerns are application of "reference approach" not appropriate, downstream protective values not scientifically valid, criteria for springs is

not adequately protective, Total Maximum Daily Loads/Reassurance Plans not acknowledged, and estimate of economic costs is inadequate. The proposed rule will become effective in October 2010 and the criteria in effect during the challenge period.

Discussion ensued regarding impacts across the state, considerable cost to consumers and communicating to the public the impact of this rule to utility bills. Mr. Beruff noted that Board members received today a copy of a letter to the EPA Administrator signed by every Congressman, Senator and Representative in the State of Florida to slow this process down so the science can be better vetted so it has the least amount of impact but still accomplish the goals of a balanced environmental policy. Ms. Closshey voiced her concern that not only the public will be impacted but agriculture and other industries.

Ms. Closshey noted that this is the Board's only meeting to discuss issues and requested that the Board be provided a copy of the technical comments. She encouraged staff to include in the written comments not only the technical points but recommendations so that other can perhaps see that there are solutions to reach the best possible criteria. Chair Joerger stated that the District should ensure that staff expertise and science are focused on District responsibilities and then make a decision if the District should delve into areas outside of its responsibilities. Ms. Closshey said even though the responsibility may lie in separate entities, the fact is the state and environment are interrelated, and she encouraged staff to look at the big picture to find solutions for a better conclusion.

Mr. Moore assured the Board that the staff team has been involved throughout the process and this presentation provided a summary of the results of staff's analysis of this proposed rule. He said the issue is making sure there is good science to protect the environment. He said the District's intent is for staff to provide concerns within the timeframe established for the rulemaking process. He said extensive comments are expected from each agency involved. As for public awareness, Mr. Moore said the media is keeping the public apprised. He said the District is reserving its right to object to the rule if it is put in rule form as currently proposed. In response to Ms. Closshey and Mr. Beruff's inquiries, Mr. Bilenky said the District preserves its right to challenge the rule based upon the comments filed within the comment period. He said it is an administrative challenge followed by litigation if issues are not resolved, and the process can take years.

Mr. Combee voiced his concerns that the public be aware of the District's involvement in the process and potential consequences of the proposed rule to the average water and sewer consumer. Mr. Moore said staff is attending public meeting and addressing the advisory committees. Mr. Bilenky said municipalities have the technical expertise and jurisdiction to address regulation issues and fiscal impacts.

Ms. Parks noted that each Board member has a bully pulpit to use, especially when sitting on other boards when representing the District. She said this is already a topic on local agendas, and everyone already understands the ramifications. She noted that utility departments are very concerned, and the District needs to support those partners.

Mr. Senft said perception becomes reality when people pay taxes to support the District, and they expect the District to be knowledgeable and involved in water matters. He said the District owes an obligation to the taxpayers to tell them what is being done and the District's role. He said the public should know the District did not do this to impact utility rates.

Ms. Whitehead said, as a reminder when speaking to other entities, small businesses already pay more than residential users. She said this will be an additional burden on small businesses that employ the majority of the people.

Chair Joerger questioned whether it is appropriate to direct staff to be advocating for appropriate standards and regulations for areas of District responsibility, and to be morally

supportive of the other agencies by participating in a unified analysis with the other water management districts to reach a positive outcome of these regulations. He asked for the Board's consensus or a motion. Mr. Moore said staff comments can be posted to the District's website, and noticed on Facebook and Twitter.

Ms. Closshey said the District goes to great extremes to ensure that the public is aware of any rule making and addressing every comment. She asked whether there is the same expectation for this federal process. Mr. Wirth said the EPA held three statewide workshops for the public's opportunity to comment. He said the District hopes the consolidated approach of the five water management districts will be taken seriously by the EPA.

Mr. Beruff said the District may not have jurisdiction but, as human beings, the public should be made aware. He said to have knowledge of these potential impacts and not impart that knowledge to every small business and citizen in the District but only follow the process means nothing to a lay person. He said a simple message to the public that utility bills will increase and this is happening at the federal level and the District's is doing its best to mitigate that impact. He said if the public record does not clearly show the District is not in favor of this rule change in its current form, then it is a missed opportunity.

Ms. Rovira-Forino said she felt the District has the responsibility, as has been discussed extensively, for its constituents to know staff is doing the science part of it. She suggested creating a press release to make communities aware of what is happening. She said District staff can communicate with utilities to discover what kind of information has been disseminated to the taxpayers. (1:31:12/2:38:18)

Ms. Closshey moved that the Board ratifies and endorses the report made by District staff to the Board at this meeting regarding this subject which is inclusive of the financial impact to the consumer, the industry, agriculture and small business owners of the state of Florida; as a Board, the members are fully supporting the written comments that will be coming from District staff to meet the deadline of March 29, 2010; and that, as a Board, the members take this subject very seriously as it seriously impacts the state of Florida and its citizens. Mr. Combee seconded the motion. (2:38:18/2:39:15)

Mr. Tharp asked whether it would be practical to have a joint resolution among the five water management districts since each district is equally concerned about this issue. He said a resolution might be more effective.

Chair Joerger noted that a card was submitted requesting to speak to the Board.

Mr. Doug Manson, representing Wiregrass Ranch, congratulated the Board for discussing this important issue. He said the public typically looks to the District for superior knowledge about water. He said the public is not aware of the full ramifications because even the scientists do not know. He advised that he will tell each of his clients to turn off the reclaimed water valve because they will be liable for treating the nitrite phosphorous since advanced water treatment will not meet standards. He asked the District to use its expertise in the field of reclaimed water for lawns, and look at that information to generate any kind of hard data about what impact that would have. (2:39:15/2:43:24)

Ms. Closshey encouraged all friends of the District to provide comments to staff. She noted that the Industrial Advisory Committee has aggressively addressed this issue and could possibly have specific points to make to the written comments.

Chair Joerger called the question and the motion carried unanimously. (2:43:24/2:44:17)

33. **Algal-Based Biological Water Treatments Pilot Study**

Dr. Gary Williams, Senior Scientist, Resource Projects Department, provided the Board with an update on the Algal-based Biological Water Treatment Systems Pilot Study. As part of the Lake Hancock Outfall Treatment Project, a number of treatment technologies, including algal-based biological water treatment systems (BWTS), were evaluated for their potential to meet nitrogen reduction goals of the project. At its February 2008 meeting, the Governing Board authorized staff to negotiate an agreement with Hydromentia for an enhanced study of the Taylor Creek facility for an amount not to exceed \$400,000 and to negotiate an amendment to the agreement with CH2M Hill to provide an independent evaluation of Hydromentia's Taylor Creek facility for an amount not to exceed \$300,000. A Notice of Award was issued to Hydromentia on March 17, 2008.

Shortly after the Notice of Award was issued, the Hydromentia facility at Taylor Creek began experiencing algae die-offs and system performance fell well below projections. District staff and Hydromentia agreed to postpone entering into an agreement and to temporarily delay the evaluation of the Taylor Creek facility until the algal growth issues were resolved. Hydromentia believed that a contaminant in the source water for the facility was inhibiting algal growth and worked to identify the contaminant and develop pretreatment methods to mitigate its effects on system performance. While the contaminant has not been identified, Hydromentia has made progress in developing pretreatment strategies to mitigate the problems with algal growth rates. However, the Taylor Creek facility has fallen short of stated nutrient removal goals throughout its operational history. The status of the project has been provided monthly in the Resource Management Committee Routine Report.

At its January 2010 meeting, the South Florida Water Management District Governing Board decided not to fund an additional year of operation of the Taylor Creek facility and on February 1, 2010, the facility was closed. Given the closure of the Taylor Creek facility, the project option chosen by the Governing Board at the end of the RFP process is no longer possible. However, Hydromentia has another full-scale facility (Egret Marsh) in Indian River County that is scheduled to commence operation by the end of February 2010. The Egret Marsh facility could provide a similar opportunity to evaluate Hydromentia's technology and meet the original intent of the Governing Board for this project. Before proceeding with an evaluation of the Indian River County Egret Marsh Facility, staff would first need to further investigate the suitability of the facility for testing, obtain permission from Indian River County to conduct an enhanced study of their facility, and update the organizational profile and qualifications of Hydromentia, Inc. that were provided as part of the original RFP response.

Dr. Williams said staff recommends to authorize staff to enter into an agreement with Hydromentia to conduct an enhanced study of the Indian River County Egret Marsh facility in order to meet the original goals the Governing Board defined for the project. He noted that Mr. Mark Zivojnovich, vice president of project development, Hydromentia, Inc., was in attendance at the meeting to provide additional information about his company's technology and details about the Egret Marsh facility.

In response to Ms. Rovira-Forino's question, Dr. Williams said that \$189,000 was spent on this project to date for the original consultant services and \$700,000 is set aside for this project. Ms. Closshey asked whether the District needs this enhanced study or would the results of the marsh facility itself after a number of years provide the report. Mr. Gramling said he was in agreement with Ms. Closshey. He said it appears Hydromentia failed in the two years it worked on this project and, since the District's taxing ability has changed in this economy, he could not support this project.

Mr. Gramling moved to cease the Algal-Based Biological Water Treatment Systems Pilot Study and wait for the results from the Indian River County Egret Marsh Facility before determining if additional research is necessary. Ms. Closshey seconded the motion. (2:44:17/2:59:17)

In response to Mr. Senft's questions, Dr. Williams said the research will be public information although the evaluation program is not intensive. He said the level of data may not be enough for the District to endorse or not endorse the technology. Mr. Wirth added that both entities' interest is phosphorous driven. He said the District's funds were to pay detailed sampling relative to source water and final product to nitrogen removal over a long period of time. Ms. Closshey and Mr. Tharp were in agreement that there are more companies in this industry today, and it would be in the best interest of each company to demonstrate the effectiveness of their technologies by funding their own research.

Chair Joerger called the question and the motion carried unanimously. (2:59:17/3:01:55)

34. Model Agreement for Cooperative Funding Program Projects

Ms. Mary Beth McNeil, Senior Attorney, Office of General Counsel, presented the model agreement used for projects funded under the District's Cooperative Funding Program and provided an overview of the contract development and approval process. Ms. McNeil presented several of the more recent contractual language changes. One such change is the requirement for the cooperator to refund all District monies paid under the agreement if the cooperator fails to complete the project, fails to maintain scheduled progress which endangers the timely performance of the agreement, or fails to appropriate sufficient funds to complete the project. Additionally, for projects that require long-term operation and maintenance to achieve the contemplated resource benefits, which is usually 20 years, the cooperator is required to pay the District a fee for early termination of the project. (3:01:55/3:06:48)

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.

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**
(3:06:48/3:07:00)

Resource Management Committee Chair Joerger relinquished the gavel to Outreach and Planning Committee Chair Tharp.

Outreach and Planning Committee

Item 13 was moved from Consent Agenda for consideration as a Discussion Item.

Discussion Items

40. Consent Item(s) Moved for Discussion

13. Approve 2010 Consolidated Annual Report

Staff is seeking Board approval for the District's 2010 Consolidated Annual Report provided in the Board's meeting information. Legislation requires the report be

submitted by March first of each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the DEP. In addition, "copies must be provided to the chairs of all legislative committees having substantive or fiscal jurisdiction over the districts and the governing board of each county in the district having jurisdiction or deriving any funds for operations of the district. Copies of the consolidated annual report must be made available to the public, either in printed or electronic format."

Ms. Parks said she wanted on the record that the District may want to consider some of these projects further. She said this is a plan but can the District afford all these things. She said that, of course, it really boils down to the fact that the District must decide what must be done, what it wants to do, and then adjust priorities. Ms. Parks said she would like to see specifically CS-11 and noted there are others that probably should come back to the Board at a time in the near future. Mr. Tharp said this is especially prudent given the current economic environment.

Following consideration, **Ms. Parks moved, seconded by Ms. Rovira-Forino, to approve the 2010 Consolidated Annual Report. Motion carried unanimously.**
(3:07:00/3:08:55)

41. **Legislative Preview**

Mr. David Rathke, Director, Community and Legislative Affairs Department, provided a brief review of current legislative activities, District priorities and budget forecasts.
(3:08:55/3:16:25)

Submit & File Report – None

Routine Reports

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

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

43. **Development of Regional Impact Reviews**

44. **Speakers Bureau**

45. **Significant Activities**

- Ms. Kavouras noted that February 27, 2010, is the second "Get Outside!" event, and it will be held at Green Swamp Wilderness Preserve – Hampton Tract in Polk County
(3:16:25/3:17:00)

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

Finance and Administration Committee

Discussion Items

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

Submit & File Reports – None

Routine Reports

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

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

- Mr. Schiller noted the District has received almost 83 percent of its yearly tax commissions. The State Board of Administration released more funds so the District has \$9.36 million remaining in the fund.

48. **Management Services Significant Activities**

- Mr. Schiller noted the District's mainframe will be turned off by March 5 once the last functions are removed, and decommissioning of the equipment will take several months.
(3:17:00/3:19:45)

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

General Counsel's Report

Discussion Items

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

Submit & File Reports – None

Routine Reports

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

50. Litigation Report
51. Rulemaking Update
(3:19:45/3:20:10)

Chair's Report

52. Chair's Report
- Chair Pressman noted he attended the February 8, 2010, meeting of the Tampa Bay Regional Planning Council. There was a presentation on green building and energy, and it was announced the regional awards luncheon is March 19 at 11:45 a.m.

There being no further business to come before the Board, Chair Pressman adjourned the meeting. (3:20:10/3:20:52)

The meeting was adjourned at 3:50 p.m.