

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

SARASOTA, FLORIDA

MARCH 29, 2011

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:02 a.m. on March 29, 2011, at the District's Sarasota 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
Jennifer E. Closshey, Member
Neil Combee, Member
Albert G. Joerger, 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

LuAnne Stout, Administrative Coordinator

Board Member(s) Absent

Todd Pressman, Member

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. (Track 1 – 00:00/03:40)

3. **Additions/Deletions to Agenda**

Mr. Moore noted there were no additions or deletions to today's agenda. Chair Oakley noted for the record there were no changes to the agenda. (Track 1 – 03:40/03:50)

4. **Employee Recognition**

Mr. Moore welcomed and congratulated Mr. Cliff Ondercin as a new member of the District's management team due to his promotion as the Sarasota Environmental Manager. He noted that Mr. Ed Craig, who had filled this position, is now the Facilitating Agricultural Resource Management Systems (FARMS) Manager in the Sarasota Service Office. (Track 1 – 03:50/05:20)

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. (Track 1 – 05:20/05:27)

Consent Agenda (Video A – 05:50)

Regulation Committee

6. **Individual Water Use Permit – WUP No. 20006519.008 - City of Bushnell Service Area – Sumter County**

Staff recommended to approve the proposed permit as included in the Board's meeting materials.

7. **Approve Joint Amended Deed of Conservation Easement and Agreement for the Myakka Mitigation Bank**

Staff recommended to approve and accept the Joint Amended Deed of Conservation Easement and Agreement for the Myakka Mitigation Bank.

Resource Management Committee

8. **Authorize Submission of Preliminary Flood Insurance Rate Maps (FIRMs) for the Hudson Bayou Watershed in Sarasota County to the Federal Emergency Management Agency (FEMA)**

Staff recommended to authorize staff to submit the preliminary FIRMs for the Hudson Bayou watershed in Sarasota County to FEMA.

Outreach & Planning Committee

9. **Water Conservation Month Proclamation**

Staff recommended to approve and execute Resolution 11-03 declaring April 2011 as "Water Conservation Month."

Finance & Administration Committee

10. **Budget Transfer Report**

Staff recommended to approve the Budget Transfer Report covering all budget transfers for February 2011.

General Counsel's Report

11. **Consent Order – Surface Water Activity - Jose Aristizabal and Liliana Aristizabal (Janet Trochet) – Highlands County**

Staff recommended to approve the proposed Consent Order whereby Trochet will restore the Property to its pre-impact condition.

12. **Settlement Agreement on Supplemental Attorneys' Fees – SWFWMD v. Titus L. Weflen and 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 concur with the Executive Director's compromise and settlement of the supplemental attorneys' fees for \$20,000.

Executive Director's Report

13. **Approve Meeting Minutes**

a. **Outreach and Planning Committee Meeting – February 10, 2011**

b. **Finance and Administration Committee Meeting – February 22, 2011**

c. **Governing Board Meeting – February 22, 2011**

Staff recommended to approve the minutes.

Mr. Combee moved, seconded by Mr. Tharp, to approve the Consent Agenda as presented. Motion carried unanimously. (Track 1 – 05:27/06:37)

Chair Oakley relinquished the gavel to Outreach and Planning Committee Chair Beswick.

Outreach and Planning Committee (Video A – 07:05)

Discussion Items

14. **Legislative Update** (Video A – 07:28)

Mr. David Rathke, Director, Community and Legislative Affairs Department, provided an update on the 2011 Legislative Session which began on March 8. Numerous bills have been filed or begun moving through the legislative process. On the federal level, Congress is still working to come to an agreement on a continuing resolution to run the federal government for the fiscal year. (Track 2 – 00:00/17:14)

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

15. **2013 Strategic Planning – Natural Systems** (Video A – 25:00)

Mr. Roy Mazur, Director, Planning Department, informed the Board on the progress of the Strategic Plan. Staff discussed the linkage of Flood Protection and Natural Systems to the budget, along with four brief programmatic presentations discussing Data Collection, Minimum Flows and Levels (MFLs), Restoration and Land Management. The strategies and success indicators associated with each initiative were highlighted. (Track 3 – 00:00/28:11)

Mr. Fritsch provided information regarding the budget linkage to the Strategic Plan to understand the District's initiatives. (Track 4 – 00:00/11:34)

Mr. Wirth provided an overview of the Data Collection and Management initiative. Mr. Moore said that, at a future meeting, staff will provide the Board with a detailed presentation on U. S. Geological Survey stream gauge data collection activities and costs. (Track 5 – 00:00/23:45)

Dr. Marty Kelly, MFLs Program Director, Ecologic Evaluation Section, provided an overview of the MFLs initiative. Discussion ensued regarding MFLs' budget and schedule if a reduction occurred. (Track 6 – 00:00/20:55)

Mr. Eric DeHaven, Director, Resource Data and Restoration Department, provided an overview of projects in the Natural Systems Restoration initiative. (Track 7 – 00:00/20:12)

Mr. Eric Sutton, Director, Land Resources Department, provided an overview of the Land Acquisition and Land Management initiative. Discussion ensued regarding revenue-generating land, total ownership versus fee title, grazing versus planting and long-term return, and current policies. (Track 7 – 20:12/21:43, Track 8 – 00:00/19:13)

Mr. Beruff moved, seconded by Mr. Gramling, for staff to create a surplus land map. Motion carried unanimously. (Track 8 – 19:13/19:40)

Discussion ensued regarding surplus land, shift from fee to less-than-fee, and two-tier approach: land to sell outright and less-than-fee to maintain conservation easements. (Track 8 – 19:40/23:25)

Mr. Mazur said the Water Quality area of responsibility will be the topic of discussion for the Board's next meeting. Discussion ensued regarding effectiveness of these presentations, contractual spending, initiatives' estimated long-term costs, reconsider

projects, approved versus required projects, and emerging trend elements. (Track 8 – 23:25/28:50)

This item was provided 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.

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

17. **Development of Regional Impact Reviews**

18. **Speakers Bureau**

19. **Significant Activities**

- Ms. Closshey questioned whether there is a process in place to determine saturation points due to media and outreach efforts leading to diminishing returns on expenditures. She asked staff to explore and report back since, if the Board has to make budget cuts, that information may be useful.

(Track 8 – 28:50/30:00)

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

Finance and Administration Committee (Video A – 02:40:30)

Committee Chair Tharp said the order of presentation is changed so that Item 23 can be heard earlier.

Discussion Items

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

23. **Fiscal Year 2012 Budget Update** (Video A – 02:42:48)

Committee Chair Tharp said that, over the past month, the District has received many requests to submit numerous reports to Tallahassee in short timeframes. He commended the District's Finance Department staff for responding to the requests in a timely manner. (Track 8 – 30:00/31:27)

Mr. Fritsch provided an update on the most recent taxable property value estimates. He then reviewed preliminary fiscal year 2012 (FY2012) budget information submitted to the Florida Senate on March 16, 2011. He presented the proposed new budget presentation format using FY2012 preliminary budget information and provided a brief demonstration of the interactive tools. (Track 8 – 31:27/39:22)

(Mr. Beruff left the meeting.)

Mr. Fritsch reviewed millage rate options and associated budgetary impacts with the Basin Boards, consistent with direction received from the Governing Board. The options presented for Board consideration and discussion include:

- (1) 25-percent reduction for all Boards
 - Meets ad valorem reduction
 - Most literal application of Governor's plan
- (2) 25-percent or more reduction for Basin Boards with remaining reduction to District general fund
 - Meets ad valorem reduction
 - Basins can still fund many high priority projects
 - Facilitates decision to consolidate to three Basins
 - Reduces ad valorem impact to District general fund

- (3) 25-percent reduction achieved entirely through Basin Boards
 - Meets ad valorem reduction
 - Most Basins can still fund several high priority projects
 - Facilitates decision to consolidate or eliminate basins
 - No ad valorem reduction for District general fund
 - (4) 100-percent reduction of Basin Board taxation
 - Meets ad valorem reduction
 - Basins could not fund projects
 - Facilitates elimination of basins
 - Ad valorem increase for District general fund
- (Track 8 – 39:22/43:30)

Following discussion, **Mr. Gramling moved to take all or most of the 25 percent ad valorem revenue reduction from the Basins, reorganize the seven Basins into three with current members continuing to serve, and to seek a change in the pending legislation which would allow all Governing Board members to vote on the Basin Boards. Chair Oakley seconded the motion. Motion carried; Messrs. Joerger and Senft voted in opposition.** (Track 8 – 00:43:30/01:44:52) In response to Board discussion, Mr. Bilenky noted the Board may continue a meeting to a date and time certain for discussion of an agenda item.

Committee Chair Tharp recessed the meeting for a lunch break (Track 8 – 01:44:52/1:49:42, Video A – 04:00:14) and reconvened the meeting at 1:30 p.m.

21. **Workload and Staffing Analysis Status** (Video B – 00:48)

Ms. Janet Sullivan, North Highland Consulting Company, provided an update on its progress to date against the projected timeline, as well as information about project tasks still to be completed. The project remains on time and is expected to be completed in June. The Board requested the survey and core mission criteria, once it is established, be made available to each member. (Track 8 – 02:30:20/02:45:13)

Mr. Fritsch said that, to change the location of the June meeting from the Tampa Service Office to the District's headquarters in Brooksville, the Board will need to make a motion. He noted it is a request by staff since the majority of staff is located in Brooksville.

Mr. Combee moved, seconded by Mr. Senft, to change the June 28, 2011 monthly Governing Board meeting location to the District's headquarters in Brooksville. Motion carried; Ms. Closshey and Mr. Joerger voted in opposition. (Track 8 – 02:45:13/02:46:20)

The Board requested that locations of future meetings be reviewed to possibly move a meeting to the Tampa Service Office. Mr. Moore noted that the Brooksville office provides a meeting room to hear items in a workshop setting. (Track 8 – 02:46:20/02:47:30)

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

22. **Fiscal Year 2010 Comprehensive Annual Financial Report** (Video B – 17:55)

Mr. Daryl F. Pokrana, Director, Finance Department, said the District is required by Section 218.39, Florida Statutes, to have an annual financial audit of its accounts and records performed by an independent certified public accountant, licensed in the State of Florida, and made in accordance with generally accepted auditing standards, Florida Statutes, and Rules of the Auditor General promulgated pursuant to Section 11.45.

Ms. Lori Nissen, KPMG Partner, communicated to the Board certain matters related to the conduct of the audit as required by auditing standards. She provided a brief presentation of the Comprehensive Annual Financial Report, including the Single Audits pursuant to

OMB Circular A-133 and Chapter 10.550, Rules of the Auditor General, and the Management Letter for fiscal year ended September 30, 2010.

Staff recommended to accept and place on file the District's Comprehensive Annual Financial Report, including the Single Audits pursuant to OMB Circular A-133 and Chapter 10.550, Rules of the Auditor General, and the Management Letter for fiscal year ended September 30, 2010.

Ms. Closshey moved, seconded by Chair Oakley, to approve the staff recommendation as presented. Motion carried unanimously. (Track 8 – 02:47:30/03:01:35)

Submit & File Reports (Video B – 32:08)

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

24. **February 2011 Meeting Requests for Information**
25. **Total Compensation (Salary & Benefits) Review Status**
26. **Office of Inspector General – Closeout Report - Fiscal Year 2008 Information Security Audit**
27. **Office of Inspector General – Information Technology Procurement Audit - Part II**

In response to Mr. Gramling's question regarding the Governor's water management districts salary comparison, Mr. Fritsch said the District is proceeding with its salary and benefits study. He noted that the Governor's request will not occur for at least a year, and this District will have valid data to assist the Office of Program Policy Analysis and Government Accountability.

Mr. Gramling moved that any benefit package controlled by District contract coming up for renewal be renewed on a month-to-month basis until the salary and benefits study is completed to prevent creating a conflict. Ms. Closshey seconded the motion. Mr. Moore clarified that the District's Executive Director is the only employee who has a contract with the Governing Board. He stated that the contract renews annually in April and agreed with the motion. **The motion carried unanimously.**

Routine Reports

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

28. **Treasurer's Report, Payment Register, and Contingency Reserves**
29. **Management Services Significant Activities**

Finance and Administration Committee Chair Tharp relinquished the gavel to Regulation Committee Second Vice Chair Combee. (Track 8 – 03:01:35/03:07:06)

Regulation Committee (Video B – 37:32)

Discussion Items

30. **Consent Item(s) Moved for Discussion** – None
31. **Hydrologic Conditions Status Report** (Video B – 37:42)
Mr. Granville Kinsman, Manager, Hydrologic Data Section, reviewed the major rainfall amounts received on March 28. February historically marks the fifth month of the eight-month dry season, and provisional rainfall totals for the month show accumulations in the below-normal to low-normal range in all regions of the District. Analysis of dry-season rainfall shows October through February totals to be below the historic mean in all regions of the District. Rainfall during the month was scattered, regionally variable and associated with several cold fronts moving through the District. The cumulative 12-month District-wide rainfall deficit increased during February, ending the month approximately 4.5 inches below the long-term average. The 24-month and 36-month cumulative rainfall deficits

increased and are approximately 3.1 and 11.1 inches, respectively, below the long-term average. The winter weather pattern appears to have shifted, as the Arctic Oscillation's influence subsides and La Niña gains control of Florida's weather. This has been marked by a sharp decrease in rainfall. The dry season runs from October through May, and further declines in hydrologic conditions are likely through this period if below-normal rainfall conditions continue through the spring months. (Track 9 – 00:00/08:56)

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

32. **Water Shortage Order 2010-022 – Consider Current and Projected Conditions**

Mr. Owen said staff is not recommending changes to the Modified Phase I Water Shortage as declared by the Governing Board at its November 16, 2010 meeting; therefore, no action is required. (Track 9 – 08:56/09:14)

33. **E-Permitting Metrics Update** (Video B – 46:40)

Mr. Owen said this item will address the questions asked by Board members regarding the number of applications received as well as the dates that the permitting programs were completed and released to the public. He presented the District's e-Permitting program and its associated outreach plan to increase online utilization. It is important to note that 100 percent of all current permit applications, including those that are received in paper format, are processed electronically utilizing the District's Water Management Information System. The District has a goal to have a minimum rate of 80-percent online utilization for all programs by October 2013. (Track 9 – 09:14/33:30)

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

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

Submit & File Reports – None

Routine Reports (Video B – 01:11:05)

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

35. **Public Supply Production Report**

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

37. **Overpumpage Report**

38. **E-Permitting Metrics: Online vs. Paper Applications**

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

40. **Resource Regulation Significant Initiatives**

- Mr. Owen apprised the Board of an issue regarding the water shortage rule revisions which were approved late last year. He said the Legislature overrode the Governor's veto of House Bill 1565 and this rule is subject to those provisions which include new requirements for the Statement Estimated Regulatory Costs (SERC). He said staff is in the process of updating the SERC and reviewed some of the new requirements.
- In response to Mr. Gramling's question, Mr. Owen provided a brief update on the Dover/Plant City rules status.

Regulation Committee Second Vice Chair Combee relinquished the gavel to Resource Management Committee Chair Joerger. (Track 9 – 33:30/38:58)

Resource Management Committee (Video B – 01:16:25)

Discussion Items

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

42. **Rocky Creek Lake Enhancement Project and Land Acquisition, SWF Parcel Nos. 14-009-114 and 113**

Committee Chair Joerger said staff recommended, contingent upon concurrence of the Hillsborough River Basin Board, to (1) accept the appraisals; and (2) approve the purchase and sale agreements for SWF Parcel No. 14-009-114 and SWF Parcel No. 14-009-113. **Mr. Gramling moved, seconded by Mr. Combee, to approve the staff recommendation as presented. Motion carried unanimously.** (Track 10 – 00:00/01:00)

Submit & File Report – None

Routine Reports

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

43. **Florida Forever Funding**

44. **Minimum Flows and Levels**

45. **Structure Operations**

46. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**

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

Resource Management Committee Chair Joerger relinquished the gavel to Vice Chair Gramling since Chair Oakley was not presently in the meeting room. (Track 10 – 01:00/01:50)

General Counsel's Report (Video B – 01:17:50)

Discussion Items

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

49. **Final Order – CKA, LLC v. Southwest Florida Water Management District - Request for Bid 1015** (Video B – 01:18:04)

Ms. Mary Beth McNeil, Senior Attorney, said staff requests the Board approve the proposed Final Order adopting the Presiding Officer's Recommended Order in its entirety, dismissing the petition of CKA, LLC, and rejecting all bids received in response to Request for Bids No. 1015. The Recommended Order and proposed Final Order are included in the Board's meeting materials. On October 22, 2010, the District issued an intended agency action to reject all bids received in response to Request for Bids No. 1015 for the Lake Hancock Lake Level Modification P-11 Structure. On December 20, 2010, CKA, LLC, filed a timely and sufficient petition pursuant to Subsection 120.57(2), F.S., alleging no disputed issues of material fact. On January 25, 2011, the Board confirmed the appointment of Board Member Jeffrey M. Adams, Esq. to serve as the Presiding Officer in the proceeding and resolve the issues of law presented in the petition. On February 9, 2011, the parties presented oral arguments in support of their respective positions. On March 11, 2011, the Presiding Officer issued a recommended order concluding that the District's intended decision to reject all bids is legally supported and recommended the Governing Board enter a final order dismissing the Petitioner's formal protest and rejecting all bids received in response to Request for Bids No. 1015.

Staff recommended to approve the proposed Final Order that adopts the recommended order issued by the Presiding Officer.

Ms. Closshey moved, seconded by Ms. Whitehead, to approve the staff recommendation as presented. Motion carried unanimously. (Track 11 – 00:00/02:43)

50. **Approve Submittal to the Governor's Office of Rule Review Responses Completed in Compliance with the Governor's Executive Order 11-01** (Video B – 01:20:26)

Ms. Karen West, Deputy General Counsel, noted that on January 4, 2011 the Governor issued Executive Order 11-01 (Suspending Rulemaking and Establishing the Office of Fiscal Accountability and Regulatory Reform). Among other things, the Order requires all agencies under the direction of the Governor, within 90 days of the date of the Order, and annually thereafter, to conduct a comprehensive review of existing rules and regulations, identify rules and regulations that are duplicative, unnecessarily burdensome, or no longer necessary, and pursue their repeal or amendment. While the Order is directed to all agencies under the direction of the Governor and does not apply to the water management districts, the District's Governing Board has voluntarily agreed to comply with the provisions of the Order. In accordance with this direction, District staff has conducted a comprehensive review of the District's rules in concert with the Department of Environmental Protection and the other water management districts. A summary of the staff's review was included in the Board's meeting materials. Rule or rule sections that have been identified as duplicative, unnecessarily burdensome or no longer necessary are identified in the summary together with a recommended action for repeal or amendment. To assist agencies in the review process the Office of Fiscal Accountability and Regulatory Reform has created a form that must be completed for each agency rule and a web application that allows completion of the forms and submittal to the Governor's Office online. A copy of the forms that have been completed was provided on compact disc to the Board prior to the meeting.

Staff recommended to approve submittal to the Governor's Office of rule review responses completed in compliance with the Governor's Executive Order 11-01.

Ms. Closshey moved, seconded by Chair Oakley, to approve the staff recommendation as presented. Motion carried unanimously. (Track 11 – 02:43/05:20)

51. **Status of Rules Pending Review by the Governor's Office of Fiscal Accountability and Regulatory Reform** (Video B – 01:23:00)

Ms. West presented an update on the status of District rules pending review by the Governor's Office of Fiscal Accountability and Regulatory Reform. (Track 11 – 05:20/06:50)

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

Vice Chair Gramling relinquished the gavel to Chair Oakley. (Track 11 – 06:50/07:09)

52. **Status of Tampa Bay Water's Seawater Desalination Project Operational Protocol Discussions** (Video B – 01:24:55)

Mr. Bilenky briefly reviewed the chronology of events occurring prior to today's meeting. At the January 25, 2011 Governing Board meeting, staff provided the Board a list of available options including the response provided by the Tampa Bay Water (TBW) General Counsel. After extensive discussion, the Governing Board directed staff to 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 the following additional provisions:

- (1) The District should consider the levels at which the Desalination Plant had been operated to determine whether it had been used so as to mitigate, to the extent practicable, the overpumping of the WUP when assessing applicable penalties for a water use permit quantity that has been exceeded by TBW.
- (2) Require a prospective minimum annual operating level of 15 million gallons per day (mgd) for the Desalination Plant and a process for reviewing and adjusting that level for changes in hydrologic conditions from projected conditions.

- (3) Recognize the operational levels achieved by the Desalination Plant listed below and consider those factors as the available reliable source definition for the purpose of meeting the system demand and for future permitting of other TBW sources.
 - (a) A twelve-month period at levels that produced an average of 20 mgd and is capable of reliably producing water at that rate indefinitely.
 - (b) A four-month period at an average production level of 25 mgd and is capable of reliably producing water at that rate for any four-month period or longer.
 - (c) A single day high of over 29 mgd and for several days at daily amounts in excess of 28 mgd during extended operating periods.
- (4) Recognizing the Desalination Plant quantities listed in (a), (b) and (c) above in all future TBW permits and make the assurance that the Desalination Plant is being maintained so as being capable of meeting these quantities as a permit condition in all future TBW permits.
- (5) 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.

On January 28, 2011, the District's General Counsel sent TBW's General Counsel a proposed memorandum of understanding that included the above provisions. On March 2, 2011, TBW's General Counsel replied that TBW does not intend to further negotiate until there is a joint meeting between its Board of Directors and the District's Governing Board.

Chair Oakley said there is a meeting set for tomorrow at 1 p.m. for him and Mr. Moore to meet with the TBW Chair and General Manager. Discussion ensued.

Staff recommended, effective immediately, implement conditions (1), (3), (4) and (5) above. Relative to condition (2), the Board should pursue one of three options:

- (a) Agree to have hydrologic, economic, demand and permit capacity issues drive TBW's use of the Desalination Plant.
- (b) Agree to a joint meeting with TBW Board of Directors in an attempt to negotiate a resolution of the issue.
- (c) Seek a resolution of the disagreement through the statutory alternative dispute resolution process and in the event that that is unsuccessful 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.

Mr. Gramling moved to support staff recommendation and initiate the process which can be stopped at anytime. Mr. Tharp seconded the motion. (Track 11 – 07:09/10:16)

For clarification, Mr. Bilenky explained the three options relative to condition (2). Ms. Closshey suggested dividing the motion to provide for discussion of the three options. Mr. Gramling withdrew his motion and Mr. Tharp withdrew his second.

Mr. Gramling moved to approve conditions (1), (3), (4) and (5) as stated above. Mr. Tharp seconded the motion. Chair Oakley called for a vote on the question and it carried unanimously. He then called for a vote on the motion which carried unanimously. (Track 11 – 10:16/14:47)

In response to Ms. Closshey's request, Mr. Bilenky provided a presentation on the three options for condition (2). Discussion ensued.

Ms. Closshey moved to approve condition (2), option (a); and authorize Chair Oakley and Mr. Moore to meet with TBW and report the outcome to the Board at its next meeting at which time the Board will consider options (b) and (c) as recommended by staff. (Track 11 – 14:47/24:47)

Discussion ensued. Ms. Closshey's motion died for lack of a second.

Mr. Gramling moved to seek resolution through alternative dispute resolution process and, if the meeting tomorrow is fruitful, then the process can be stopped. Mr. Combee seconded the motion. Chair Oakley called for a vote on the question and it carried unanimously. He then called for a vote on the motion which carried with Mr. Adams voting in opposition. (Track 11 – 24:47/34:40)

Submit & File Report

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

53. **District's Authority to Secure Patents, Copyrights and Trademarks – ASR Technologies**

Routine Reports (Video B – 01:52:40)

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

54. **Litigation Report**
• Mr. Bilenky provided an update on the successful prosecution of an inverse condemnation claim (Hames case) against the District.
55. **Rulemaking Update**
(Track 11 – 34:40/36:27)

Committee/Liaison Reports (Video B – 01:54:12)

56. **Basin Board Education Committee Meeting**
Ms. Whitehead briefly reviewed the topics discussed at the March 3, 2011 meeting. The next meeting is scheduled for July 14, 2011 in the District's Tampa Service Office.
57. **Basin Board Land Resources Committee Meeting**
Mr. Joerger briefly reviewed the topics discussed at the January 11, 2011 meeting. The next meeting is scheduled for July 12, 2011 in the District's headquarters in Brooksville.
58. **Agricultural Advisory Committee Meeting**
Mr. Beswick briefly reviewed the topics discussed at the February 24, 2011 meeting. The next meeting is scheduled for May 26, 2011 in the District's Tampa Service Office.
60. **Environmental Advisory Committee Meeting**
Mr. Adams briefly reviewed the topics discussed at the March 7, 2011 meeting. The next meeting is scheduled for June 6, 2011 in the District's Tampa Service Office.
59. **Green Industry Advisory Committee Meeting**
Mr. Tharp briefly reviewed the topics discussed at the February 24, 2011 meeting. The next meeting is scheduled for May 26, 2011 in the District's Tampa Service Office.
(Track 12 – 00:00/08:20)

Executive Director's Report (Video B – 02:02:34)

61. **Executive Director's Report**
- a. **September 28, 2010 Governing Board Workshop Summary Update**
• Mr. Moore noted that an updated summary table of the Governing Board's workshop held on September 28, 2010, is provided for the Board's feedback.
- b. **Other**
• Mr. Moore noted that the District's FY2012 budget is progressing and executive management review is occurring.

- Mr. Moore provided an update on activities involving the Central Florida Coordination Area (CFCA). He said many of those utilities are being permitted for 20 years. Mr. Moore said the District received a letter from Mr. Jim Freeman with Polk County. He said Polk County has requested that the District engage at a higher level regarding negotiations with the County and Tampa Bay Water. Mr. Moore said he is recommending the District become more involved and Mr. Gary Fries, Polk County Utilities Director, is here to speak to that issue. Mr. Fries thanked the Board for becoming more involved. He said it is an issue of allocation, long-term use and how the County receives water, especially for the western area. Mr. Senft noted that Polk County has a very progressive loop system of pipes for a regional approach to help supply water from one side to the other. Mr. Moore said the parties are taking a new tack with CFCA and intensifying communications to solve water problems in eastern Polk County. In response to Ms. Closshey's question, Mr. Moore said there is about \$200 million in the District's financial engine for water supply projects in Polk County.
- Mr. Moore said the District's 50-year anniversary will center around the Board's October 2011 meeting. He said a number of former employees are involved and have offered to raise money to help fund the event. He noted a special edition of *WaterMatters* will be published.
- Mr. Moore said that Peace River Basin Board Member Rufus Lazzell has been honored by Charlotte County by declaring March 31 as "Rufus Lazzell Day."
(Track 13 – 00:00/11:19)

Chair's Report (Video B – 02:14:00)

62. Chair's Report

- In response to Mr. Adams' query, Ms. Kavouras said each Board member received the topics discussed at the Tampa Bay Regional Planning Council monthly meeting.
- Chair Oakley said changes in Tallahassee have affected a lot of people but, when change comes about, no one likes it but you have to work hard, continue to do the job, and sometimes it results in better times. He said he has heard comments about how professional the District's staff is, and he and the Board thank staff for all they do.
(Track 14 – 00:00/01:55)

Ms. Closshey suggested changing the meeting location for the May meeting since June's meeting will be held in Brooksville. Ms. Kavouras noted that May is the Board's election of officers and the Board requested last year to hold elections at the District's headquarters. She suggested the Board change its location for July or August and said staff will provide a recommendation at the Board's April meeting. (Track 14 – 01:55/02:57)

Following Board discussion, consensus was to continue the March Board meeting for Board members to relay outcome of Tallahassee meetings regarding millage rate options and associated budgetary impacts with the Basin Boards, and reconvene on April 12, 2011 at 10:00 a.m. in the Tampa Service Office. (Track 14 – 02:57/09:52)

Chair Oakley recessed the meeting at 4:05 p.m. (Video B – 02:23:46)