

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

JULY 27, 2010

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:02 a.m. on July 27, 2010, at the District's headquarters in Brooksville. 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  
Jennifer E. Closshey, Member  
Neil Combee, Member  
Albert G. Joerger, Member  
Todd Pressman, Member  
Maritza Rovira-Forino, 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 Administrative Support

LuAnne Stout, Administrative Coordinator  
Tahla Paige, Senior Administrative Assistant

Board Member(s) Absent

Bryan K. Beswick, 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](http://www.WaterMatters.org)).

**Public Hearing**

1. **Call to Order**

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

2. **Pledge of Allegiance and Invocation**

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

**Public Hearing**

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

Chair Oakley stated that anyone wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda should fill out and submit a speaker's card. To assure that all participants have an opportunity to speak, a member of the public may submit a speaker's card to comment on agenda items only during today's meeting. If the speaker wishes to address the Board on an issue not on today's agenda, a speaker's card

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

3. **Additions/Deletions to Agenda**

Chair Oakley noted for the record that there are no changes to the agenda. (Track 1 – 00:00/04:40)

4. **District Recognition – Florida Nursery, Growers and Landscape Association Recognizes District for Landscape Challenge**

Mr. Michael Molligan, Director, Communications Department, said the Florida Nursery, Growers and Landscape Association (FNGLA) recognized the District for its support of the Landscape Challenge, an event that encourages landscape best management practices that protect water resources. On April 16, the District's first Landscape Challenge event was held at the Pay it Forward Farm (PIFF) in Pasco County. Ms. Merry Mott, FNGLA Director of Industry Certifications, addressed the Board and noted that also here today was Ms. Christine Collins of PIFF. Ms. Mott said that Ms. Collins and the District's Senior Communications Coordinator Sylvia Durell were hosts of the April 2010 landscape challenge in Spring Hill. The Landscape Challenge is unique among the industries' professional programs in providing hands-on instruction in a competitive format that allows participating teams from professional landscape maintenance companies and government facilities departments to demonstrate their real-world application of skills learned. Messrs. Kris Miller, Steve Noble, Silas Rooker and Jesse Stephens from the District's Facilities & Construction Services Section represented the District in the Challenge and won third place out of seven teams. Ms. Mott presented a plaque to the District. Mr. Gramling complimented District staff, FNGLA and other industry entities for the tremendous partnership forged for conservation and water quality in the landscaping industry. (Track 1 – 04:40/11:00)

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

5. **Employee Recognition**

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

<b>Milestone</b>	<b>Employee Name</b>	<b>Title</b>	<b>Department</b>	<b>Office Location</b>
<b>Retirement</b>	Tim Bailey	Field Operations Supervisor	Operations	Tampa
<b>25 Years</b>	Rick Judd	Lead Tradesworker	Operations	Brooksville
	Dan Roche	Senior Heavy Equipment Operator	Operations	Tampa
<b>20 Years</b>	Joe Oros	Senior Prof Geologist/Engineer	Bartow Regulation	Bartow

Mr. Mike Holtkamp, Director, Operations Department, provided a brief history of Mr. Tim Bailey's 37 years of service and presented him a plaque in honor of his retirement. (Track /1 – 11:00/22:23)

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

## Consent Agenda

### Finance & Administration Committee

7. **Budget Transfer Report**

Staff recommended to approve the Budget Transfer Report covering all budget transfers for June 2010.

8. **Board Policy No. 190-2, Information Security**

Staff recommended to approve Board Policy 190-2, Information Security.

### Executive Director's Report

9. **Approve Governing Board June 29, 2010 Meeting Minutes**

Staff recommended to approve the minutes.

Following consideration, **Ms. Closshey moved, seconded by Ms. Rovira-Forino, to approve the Consent Agenda as presented. Motion carried unanimously.** (Track 2 – 00:00/00:40)

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

Chair Oakley noted that no requests to speak were submitted. (Track 2 – 00:40/00:57)

Chair Oakley relinquished the gavel to Finance and Administration Committee Chair Tharp.

## Finance and Administration Committee

### Discussion Items

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

11. **Fiscal Year 2011 Budget Update and Adoption of Proposed District and Basin Millage Rates**

Committee Chair Tharp said today the Governing Board needs to adopt proposed millage rates for the General Fund and the Basins. The Basin Boards met in June and adopted proposed millage rates for recommendation to the Governing Board. These millage rates will be used by the property appraisers to develop the Notices of Proposed Property Taxes that will be mailed to homeowners in August. After the proposed millage rates are adopted, the millage rates can be lowered but not raised. Before adopting the proposed millage rates, staff will present an update of the recommended fiscal year (FY) 2011 budget, focusing on proposed changes since the last meeting on June 29, 2010. Staff will also provide an overview of the Program Budget that was postponed from the June meeting.

Committee Chair Tharp said the update will highlight the July 1, 2010 Certifications of Taxable Value that were received from the District's 16-county property appraisers, and the revised estimate of ad valorem revenue for FY2011; along with other revenue and expenditure adjustments in the General Fund and changes to Basin budgets. Last month, the Board requested further discussion of District staffing and staff will be prepared at the August Board meeting to provide a presentation. Staff will also provide an update in August of the District's Long-Range Water Supply and Water Resource Development Funding Plan through 2030, along with any other topics of interest requested today.

Committee Chair Tharp urged Board members to contact Mr. Schiller or Ms. Linda Pilcher, Assistant Director of the Finance Department, to discuss any budget matters between meetings. He pointed out that, by July 21, the District had received 100.2 percent of the proposed budget meaning the funds are already available to fulfill the FY2010 budget. (Track 3 – 00:00/02:42)

Mr. Schiller provided an overview of the proposed fiscal year budget. He said staff is recommending approval of the required resolution for the adoption of proposed millage rates for FY2011. He noted that budget updates will be provided monthly for the Governing Board's consideration through adoption in September. The budget calendar shows the next action is the August 1 Budget report to the Governor. This report will reflect the budget as presented to the Board today. Although not shown on calendar for August 5, he and Ms. Pilcher, along with Mr. David Rathke and Ms. Colleen Thayer of the District's Community and Legislative Affairs Department, will meet in Tallahassee with the Governor's staff and staff from the Senate and House to review the District's tentative budget. In August, the Basin Boards will adopt final millage rates and budgets for recommendation to the Governing Board. At the August 24 Governing Board meeting, staff will provide an update of the District's Long-Range Water Supply and Water Resource Development Funding Plan through 2030, and present additional information regarding staffing. Based upon the Long-Range Funding Plan, the Governing Board may wish to consider any adjustments in the General Fund millage at the August 24 meeting.

Mr. Schiller summarized the impact of the July 1 Certifications of Taxable Values the District received from the 16-county property appraisers. For the District's General Fund, based on declining property values and assuming the same millage rate as FY2010, ad valorem revenue will be \$12.9 million (10.8 percent) less than FY2010; in comparison, last year the tax base declined by 11.6 percent. For the Basins, based on declining property values and a reduction in the millage rate for the Hillsborough River and Pinellas-Anclote River Basins, ad valorem revenue will be \$9.7 million (14.2 percent) less than FY2010; combined ad valorem revenue will be \$22.6 million or 12 percent less than FY2010 at this point in time, subject to final decisions.

Mr. Schiller then provided a brief update on the recommended changes to the budget since the Board's last meeting. Except for the Basins, there are few changes at this point, and he identified the changes that have been made to the Budget, by Fund, since June 29. The District-wide budget as of this date is \$282.9 million, an increase of \$7.0 million since June 29. This is primarily due to \$6.1 million in additional balances from prior year for the Basins related to canceled projects, projects completed under budget and interest earnings in excess of budget. The General Fund budget has increased by \$597,000. This primarily relates to the re-allocation of \$791,000 in prior year state trust funds for water supply resource development projects. These increases are offset by \$194,000 in expenditure reductions. (Track 3 – 02:42/08:55)

In summary at this point in time, Mr. Schiller said the District's budget is down \$16 million from FY2010. This is primarily due to (1) \$22 reduction in ad valorem revenue compared to FY2010; and (2) \$9 million reduction in state (\$8 million) and federal (\$1 million) funding. The impact of these decreases in revenue is lessened by a \$15 million increase in balances available from prior years mainly due to the cancellation of the City of Tampa projects. Finally, this budget includes \$166 million (59 percent of total budget), including the District's cooperative funding programs, that will be contracted out and directly benefit private industry, in these difficult times. These funds will be leveraged with an estimated match of \$84 million by cooperator partners for a total potential investment of \$250 million (Water Supply and Resource Development (WSRD)/Cooperative Funding – \$95.3 million plus Outsourcing – \$85.8 million, less WSRD/Cooperative Funding/Surface Water Improvement and Management (SWIM) in outsourcing – \$14.9 million equals \$166.2 million). (Track 3 – 08:55/10:30)

Mr. Schiller said at the last meeting there was discussion regarding the District's encumbrance balances which are starting to decline over the last couple of years and staff expects this trend to continue. As staff has previously discussed with the Governing and Basin Boards, the District enters into legal contracts to fund operations, Cooperative Funding and other projects, and the funds are encumbered or set aside at that time. Encumbered funds cannot be utilized for other purposes until the project is cancelled, the contract scope is reduced, or the project is completed under budget. The District requires the cooperators to set aside their funding within their annual budgets. In governmental accounting, encumbered funds cannot be used for other purposes. If the funds become available, they can be added to fund balance and used for other projects. Alternatively, the Governing and Basin Boards could consider reductions in millage depending upon long-range funding requirements. Reserves are funds encumbered for future projects and constitute funds set aside consistent with the District's successful pay-as-you-go philosophy. The District's approach of setting aside any revenue from increases in taxable value has worked well in good times to ramp up for projects, as well as to provide adequate funds to address District priorities in a time of declining revenues. The District is well positioned to finance core priorities until the economic climate improves.

Mr. Schiller said that, as of June 15, the District has \$614 million in encumbrances (\$479 million for ongoing projects (General Fund \$313 million and Basins \$166 million) and \$135 million in WSRD Reserves (General Fund \$108 million and Basins \$27 million). Basin encumbrances are approximately equal to the 2005/2006 levels. General Fund encumbrances are \$166 million. This includes major projects such as \$50 million for the Lake Hancock land acquisitions; \$20 million for Tampa Bay Water System Configuration II; \$14 million for the Southwest Polk County-Tampa Electric Company project; and \$11 million for Peace River Manasota Regional Water Supply Authority Regional Loop System. (Track 3 – 10:30/14:08)

Mr. Schiller said the Balances from Prior Years are used as a source of funding for new projects. All balance forward dollars are re-budgeted by the Governing and Basin Boards, in a pay-as-you-go system. Fiscal years 2003, 2004, 2005, 2006 and 2007 are more typical of the District's traditional levels of balance forward. The significant increases since FY2008 are unprecedented and relate to the cancellation of major projects that had been funded at least in part over multiple years, and to project bids below estimates in these weak economic times. For example, of the \$40 million in Basin Balances for FY2009, \$13.3 million is due to the cancellation of the Tampa Bay Regional Reclaimed Water Project which impacted six basins. This allowed them to re-budget the funds for other purposes. Another example of the \$55.1 million in Basin Balances for FY2011 is \$25 million due to the cancellation of three Hillsborough River Basin cooperative funding projects by the City of Tampa. These funds have been re-purposed for other current projects and reserves for future projects. Finally, due to fewer requests for funding combined with higher than normal balance forwards and an extension in the timeline for new water supply and other long-range funding requirements through 2030, both the Hillsborough and Pinellas-Anclote River Basins are recommending reducing their millage rates for FY2011. While there will be a lag time over the next couple of years as the economy and cooperator budgets stabilize, these higher levels of balances from prior years are not expected to continue long-term. (Track 3 – 14:08/18:30)

Discussion ensued regarding outsourced dollar details, operating expenses, reserve and revenue dollars, balance forward funds, cash flow, balance between the growth of capital and expenses, projects declining, millage reduction, cooperative funding percentages, ad valorem valuations, ecosystem acquisitions, future impacts such as numeric criteria

standards, and regional funding. Mr. Moore said staff will address the Board's concerns at the August meeting. (Track 3 – 00:18:30/01:11:40)

Mr. Schiller noted that the District's revenue budget's peak years were FY2007 and FY2008. In FY2009, FY2010 and continuing into FY2011, ad valorem revenue reflects the fall of the real estate market, with declining property values and limited new construction. Property values are expected to stabilize and bottom-out by FY2012. Total District revenues are now at the FY2005 through FY2006 levels. Finally, as ad valorem revenues have decreased and the District has held the line or reduced operating expenses, combined with higher than normal balance forwards, the District has been able to create a stable financial climate while continuing to meet its highest priorities, without bonded debt. (Track 3 – 01:11:40/01:14:46)

Mr. Beruff requested a chart showing the capital amounts on June 30 from FY2001 through FY2010 and outsourcing dollars annualized for that same ten-year period. Mr. Schiller said the best representative date is fiscal year end which is September 30. Mr. Beruff agreed. Mr. Schiller then introduced Mr. Mazur. (Track 3 – 01:14:46/01:20:03)

Mr. Roy Mazur, Director, Planning Department, presented the FY2011 budget by statutorily defined program categories which are how the budget is submitted by all the water management districts to the Office of the Governor. The information was prepared by allocating each activity among Areas of Responsibility (AOR) using the best estimates. (Track 4 – 00:00/07:26)

Mr. Schiller said staff is recommending to approve Resolution No. 10-11, Adoption of Proposed District and Watershed Basin Millage Rates for Fiscal Year 2011.

Proposed District Millage Rate	0.3866 mill
Proposed Watershed Basin Millage Rates	
Alafia River Basin	0.2163 mill
Hillsborough River Basin	0.2300 mill
Coastal Rivers Basin	0.1885 mill
Pinellas-Anclote River Basin	0.2900 mill
Withlacoochee River Basin	0.2308 mill
Peace River Basin	0.1827 mill
Manasota Basin	0.1484 mill

Following consideration, **Mr. Gramling moved, seconded by Ms. Closshey, to approve Resolution 10-11, Adoption of Proposed District and Watershed Basin Millage Rates for Fiscal Year 2011, as presented. Motion carried unanimously.** (Track 4 – 07:26/09:37)

Committee Chair Tharp thanked staff for their work since the budget is an arduous task. He said the discussion today was extremely beneficial, and he thanked the Board members for their input.

### ***Submit & File Report***

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

12. **Fiscal Year 2010 Third Quarter Financial Report**

### ***Routine Reports***

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

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

Finance and Administration Committee Chair Tharp relinquished the gavel to Chair Oakley since the order of consideration was altered to hear Item 35. (Track 4 – 07:26/09:59)

## General Counsel's Report

### *Discussion Item*

35. **Initiation of Litigation – WUP No. 20010392.005 – Milmack, Inc. (Oakwood Golf Club) – Polk County**

Ms. Amy C. Wells, Staff Attorney, Office of General Counsel, said on June 29, 2010, District staff presented this matter to the Governing Board and requested authorization to initiate litigation against Milmack, Inc. (permittee) and any other appropriate parties to obtain compliance, a monetary penalty, and recovery of District enforcement costs, court costs, and attorney's fees. Representatives from the permittee and the owners of the surrounding development, Oakwood Land Company, also provided public comment. The Governing Board requested that this item be deferred to its July 27, 2010 meeting to allow the permittee an additional opportunity to work with District staff. Governing Board members also expressed an expectation that the permittee make substantial progress toward resolving this matter by the July Board meeting.

Ms. Wells said there is no additional information to indicate that staff should change its original recommendation. Staff is recommending that the Board authorize initiation of litigation against the permittee and any other appropriate parties to obtain compliance, a monetary penalty, and recovery of District enforcement costs, court costs and attorneys' fees.

Mr. Brian S. Starford, P.G., Director, Bartow Regulation Department, provided an overview of staff's actions since the Board's last meeting. On June 30, 2010, District staff met with the permittee and its representatives to discuss what items need to be completed prior to the next Governing Board meeting. Those items were outlined in a letter dated July 1, 2010, and included the following: installation of a meter on the surface water withdrawal and submittal of meter reading data, in accordance with Special Condition 7 of the permit; establishment of appropriate acreages for fairways, tees, and greens for each of the permittee's 18 golf course holes; and submittal of an application for permit modification, if the permittee can demonstrate justification for an increased quantity. District staff also committed to providing staff to perform leak detection and to perform an irrigation audit on the permittee's irrigation system, and to provide recommendations the permittee could employ to improve the system's efficiency. No leaks were detected, the irrigation audit was done, and the acreages calculated approximately.

Following consideration, **Ms. Rovira-Forino moved, seconded by Mr. Beruff, to authorize initiation of litigation against the permittee and any other appropriate parties to obtain compliance, a monetary penalty, and recovery of District enforcement costs, court costs and attorneys' fees.** (Track 5 – 00:00/17:36)

In response to Mr. Senft's question, Mr. Starford said he could not confirm whether the District had received information that the meter was ordered/installed. Mr. Adams said the irrigation appears outdated and questioned what is the District's ultimate goal: to win the litigation or work with someone who is trying to work with staff. (Track 5 – 17:25/20:50)

Mr. Dan O'Neal, golf professional and general manager of Oakwood Golf Club, said he has renovated and built six different golf courses. He said he has over 40 years

experience as a golf pro and superintendent. Mr. O'Neal said the meter was installed yesterday and the Club has done everything requested by the District. The Club is not being given credit for 116.8 acres – not allotted enough water. Mr. O'Neal claimed that the Bartow Service Office mandated in 2004 to allow a developer to remove dirt to allow his property to drain onto the Club property. He believed this created a situation where seven holes were under water for over a year and these areas had to be rebuilt. Now the Club is facing a fine and the fairways are brown due to the reduction of water. The Club is doing what it can to stay in business and comply with the permit. Mr. O'Neal said he is requesting water usage for 116.8 acres. (Track 5 – 20:50/25:55)

Mr. Ron Mackail, representing Oakwood Golf Club, said the meter was installed late yesterday. Regarding establishing appropriate acreage for fairways, tees and greens, Mr. MacKail said he called the Bartow Service Office to ask how staff establishes acreage but did not receive that information until today when Mr. Starford provided his overview. He read from the July 21, 2010, letter sent by staff which stated that the method to calculate acreages was not appropriate. He claimed the Club has received a letter stating that the course's management was very good. He said the amount of pumpage from December 31, 2008, was 337,500 gallons per day (gpd). He said he calculates the amount to be 238,500 gpd. He said the permit goes back to 2003 when the course was built which comes to 164.53 acres. He asked how the permit went from 164.53 acres to 97 acres. The number of gallons reported from 1994 through 2000 shows historically the consistency of pumpage since the beginning. Mr. MacKail said he does not understand what changed. (Track 5 – 25:55/34:15)

In response to Ms. Closshey's inquiry, Mr. Bilenky said the Board is a policy-setting body. In response to Mr. Senft's question, Mr. Starford said the original permit was evaluated in 1993 and subsequent modifications were made in 2003 when Southern Water Use Caution rules went into effect.

Mr. Bilenky said the District pursues litigation when there may not be recovery of the penalties because, once the District has a judgment for a permit, it places the District in a higher category for recovery as a judgment creditor. Penalties are not based upon staff's efforts or duration of working with the permittee but upon the quantity of overpumping versus quantity of the permit. Penalties are based not on what the applicant is doing but what he should be doing under rules that are applied to all permittees of like consideration. Ms. Wells said the District's proposed penalty to the permittee was calculated based upon four months of overpumpage for the months of April through August, 2009, but that the permittee had been overpumping for at least five years. Mr. Bilenky said technical staff was first involved to bring permittee into compliance before sending the file to his office in the beginning of 2009. (Track 5 – 34:15/41:23)

Mr. Pressman asked to see Mr. McKail's permit. Ms. Rovira-Forino noted that, in her records, the first report of overpumpage was in 2008. Ms. Closshey said the Board is setting a precedence and policy about staff handling permittees that are not in compliance. She said there are permits on the overpumpage report showing two or four months, not five years. Mr. Senft noted that staff has been working with the permittee for several years and staff has not been given proof the meter was installed. He noted there needs to be attention to detail. Mr. Adams said he appreciated the additional information provided today.

In response to Mr. Pressman's question, Mr. Owen said the first permit was probably based upon the owner's calculation of acres. He said the first Southern Water Use Caution Area rules altered all permits for efficiencies. Mr. Owen said the golf course



superintendents were vetted for over a year and involved in the public meetings. He said all permittees were notified of modifications. Mr. Gramling said the Board is giving the General Counsel the authority to begin the process.

**Mr. Gramling called the question and the motion carried unanimously.** (Track 5 – 41:23/47:17)

**Chair Oakley then asked the Board to vote on the motion approving the staff recommendation. Motion carried unanimously.** (Track 5 – 47:17/48:17)

At this time, the Board meeting recessed to provide a lunch break and reconvened at 12:33 p.m.

Chair Oakley relinquished the gavel to Regulation Committee Chair Beruff.

## Regulation Committee

### *Discussion Items*

#### 15. January 2010 Freeze Event

##### a. Update on Rulemaking Amending 40D-3.600, Florida Administrative Code (F.A.C.), to Expand North and South Dover Areas Having Special Well Construction Standards

Mr. Owen said, in 2002, the District adopted Rule 40D-3.600, F.A.C., which sets forth special well construction standards for potable wells in and around the Dover-Plant City area, to address potential impacts to such wells as a result of significant groundwater use by the surrounding agricultural community during frost/freeze events. At the May 2010 Governing Board meeting, the Board authorized the initiation of rulemaking and approved proposed amendments to Rule 40D-3.600, F.A.C., to expand the North and South Dover Areas. This expansion is based on the effectiveness of the required casing depths in preventing well impacts, as demonstrated during the extensive freeze events of January 2010. The amendments also clarify that the well construction standards required by the rule extend to both new and modified or repaired wells.

A notice of rule development was published in the Florida Administrative Weekly on June 4, 2010, and the proposed rule amendments were published on June 11, 2010. Interested persons had 21 days, or until July 2, 2010, to submit comments or objections, request a public hearing or provide a proposal for a lower cost alternative to the proposed amendments. No public comments or request for a public hearing have been received, nor has any proposal for a lower cost alternative been submitted. The rule amendments were also provided to the Joint Administrative Procedures Committee (JAPC) for review and comment on June 11, 2010. To date, no comments or objections have been received from JAPC. Staff intends to file the amendments with the Department of State following the July Board meeting, and anticipates that the expanded North and South Dover areas will be effective in August 2010. (Track 6 – 00:00/02:45)

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

b. **Status of Voluntary Payments by Agricultural Industry Representatives of Well Repairs Outside Permittee Mitigation Areas, Discussion of Litigation Options on District-Paid Repairs and of Outstanding Well Liability Cases in Legal**

Mr. Bilenky noted there remain three distinct groups of impacted citizens. Of the three, only the first group of impacted citizens, those for which the District expended funds pursuant to its Executive Director's Emergency Order of January 27, 2010, will require a Board vote seeking authority on how to proceed. Ms. Adrienne Vining, Staff Attorney, Office of General Counsel, provided a status report of all claims.

Class II Homeowners – There were a number of wells that were outside any mitigation circle and as a result, there were no identifiable responsible permittees. Repairs were undertaken by the homeowners who incurred expenses in the aggregate amount of \$41,953.72. Thirty-eight homeowners accounted for the expenditures or an average of approximately \$1,100.00. Only two of the expenditures exceeded \$2,000. Voluntary contributions to reimburse the costs of remediation have been made by the Department of Agriculture and Consumer Services; Florida Strawberry Growers Association; Florida Citrus Mutual, Inc.; Tampa Bay Wholesale Growers, LLA; Florida Blueberry Growers' Association; and the Florida Tropical Fish Farms Association, Inc.

Class III Homeowners – Those homeowners within an identified mitigation area of a permittee who self mitigated. Sixty-five litigation files were sent to legal and nine were resolved without recourse to any formal proceeding, leaving 56 remaining that have not been resolved. These cases constitute a total liability of \$114,950.00 of which \$26,258.00 was paid by the District to drill three new wells using funds authorized by the Governing Board under the Emergency Order.

Class I Homeowners (Emergency Order Citizens) – There was a group of citizens who were outside a mitigation area of any permittee or who had adversely impacted wells where the permittee was refusing (for whatever reason) to remediate a well, and by the date of the Board meeting, the homeowners were still without potable water. The Board authorized the Executive Director to execute an emergency order to meet an immediate risk to public health safety or welfare as a result of the impacts to individual wells caused by the pumping of ground water for frost freeze protection in the vicinity of Dover, Florida. The Emergency Order was issued on January 27, 2010. The District incurred emergency expenditures of \$78,300.10 for remediation of homeowner wells for which there is no responsible permittee. District staff has requested each homeowner repay the District in the event of receipt of insurance coverage or other recovery. Based upon the fact that public funds were expended pursuant to an emergency order for health safety and welfare and the staff has made a reasonable effort to obtain reimbursement from the affected homeowners without success, the only method remaining is for the District to seek recovery through litigation. In light of the facts that these homeowners were unable to remediate on their own accord and the cost of pursuing 20 individual recoveries through county and circuit court would probably cost more than would be recovered, District staff recommends that the Board direct the staff that it would not be in the public interest to expend additional public funds to seek recovery through litigation of these claims.

Staff recommended the District-incurred emergency expenditures of \$78,300.10 for remediation of homeowner wells for which there is no responsible permittee; and that, as to those claims arising under "class I homeowners," the Board direct staff that it would not be in the public interest to expend additional public funds to seek recovery through litigation of these claims. Following consideration, **Mr. Tharp moved,**

**seconded by Ms. Rovira-Forino, to approve the staff recommendation as presented. Motion carried unanimously. (Track 6 – 02:45/19:38)**

Mr. Moore said he thanks staff for their hard work in following up with each homeowner. Mr. Owen said staff will provide a status report at the next meeting.

c. **Initiate Rulemaking to Amend 40D-2, 40D-8 and 40D-80, F.A.C., to Establish a Water Use Caution Area in the Dover/Plant City Area and Associated Water Use Permitting Requirements, Minimum Level and Recovery Strategy**

Ms. Alba E. Más, P.E., Director, Tampa Regulation Department, said in June District staff completed its sessions with the Technical Work Group and provided the Governing Board with an overview of staff's resulting Management Strategy for freeze protection in the Dover/Plant City area. The Board concurred with each of the elements of the Management Strategy as recommended by staff, either at the June meeting or in previous meetings, including seeking state and federal funding, expansion of the area subject to special well construction standards, a revised process for allocating investigation and remediation of well complaints, enhanced communications, local government planning and coordination, optimizing water use for freeze protection, enhanced data collection, and alternative freeze protection methods. The Board also concurred with implementation of an incentive-based, cooperatively funded program to reduce freeze protection quantities (tailwater recovery ponds, covers and foam; including use of the District's Facilitating Agricultural Resource Management Systems (FARMS) program to provide up to 75 percent of the costs).

One component of the Management Strategy that staff did not seek concurrence with at the June meeting is the development of regulatory strategies to limit and reduce groundwater pumpage in the Dover/Plant City area for freeze protection. Although several approaches have been evaluated and discussed with the Technical Work Group, a final recommendation had not been developed by staff. The next steps in implementing the Management Strategy are outreach/stakeholder meetings in July and August; initiation of rulemaking at the July Governing Board meeting and rule adoption scheduled for the November Governing Board meeting.

The actions taken were to reduce significantly the risk of sinkhole development and well problems that occurred during the January 2010 frost-freeze event in eastern Hillsborough County. The goal is to limit additional groundwater withdrawals in an area that experiences the greatest aquifer drawdown resulting from pumping during a freeze event and to reduce the use of groundwater currently permitted by 20 percent over the next ten years through incentive-based programs.

The draft action plan includes reduce the risk of sinkhole development and well problems, 20-percent reduction in withdrawals to keep aquifer levels 10 feet above sea level during freeze events, use an incentive based approach with a 10-year implementation, protect existing investments to the greatest extent practical, stabilize and reverse long-term aquifer level declines, enhance data collection networks to monitor progress, enhance outreach as an event approaches, during and after, and revise well mitigation allocation procedure. Required rule amendments to accomplish the action plan include declaring a water use caution area (256-square-mile area for FARMS and model, 30-foot drawdown contour for annual average and crop protection quantities), establishing minimum aquifer level for frost/ freeze event (10 feet above sea level at DV-1), developing a recovery strategy, and revising permitting criteria.

The new rules will require meters on Small General Water Use Permits and automated meter reading devices on all permits with frost-freeze protections, significantly constrain new groundwater quantities, require investigation of alternative methods of protection, modify complaint investigation criteria, use of the Florida Automated Weather Network (FAWN), and enhance use of tools like the FARMS program to address recovery in the area.

Rulemaking is necessary to implement the regulatory components of the Management Strategy, including the limitations on groundwater for freeze protection to be discussed at the July meeting, the complaint allocation process, and those aspects of alternative freeze protection methods and data collection that will be requirements for permittees. Staff will prepare draft rules for discussion at public workshops in August and September. Draft final rules will be presented to the Board for review and discussion at its October Board meeting with a request for approval planned for the November Governing Board. If there are no requests for hearings or objections from the Joint Administrative Procedures Committee, this will allow the rules to be effective at the beginning of January 2011.

Staff recommended to concur with the establishment of a Water Use Caution Area and minimum flows and levels in the Dover/Plant City area; and approve initiation of rulemaking to amend 40D-1, 40D-2, 40D-8 and 40D-80, F.A.C., to establish a Water Use Caution Area in the Dover/Plant City area and associated water use permitting requirements, a minimum aquifer level and associated recovery strategy.

Following consideration, **Ms. Closshey moved, seconded by Mr. Senft, to approve the staff recommendation as presented.** (Track 7 – 00:00/24:32)

Mr. Gramling said that, under the FARMS Program to receive cooperative funding, the District is only paying for capital expense items. He said that, as the variations are developed, the District continues to stay engaged and only do capital items. Ms. Closshey voiced her agreement. Mr. Bilenky noted that one of the enhancements is the length of time permittees have to respond. He said, if unable to have rules adopted in time, staff is considering emergency rules should another frost-freeze event occur. Mr. Gramling said a reasonableness clause is needed if due diligence has been done by the permittee. Mr. Owen said staff is considering a number of improved procedures for incorporation. Mr. Gramling said it needs to be in an enforceable format.

**Motion carried unanimously.** (Track 7 – 24:32/28:26)

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

There were no requests for applications or petitions 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.

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

***Routine Reports***

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

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

19. **Overpumpage Report**

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

Mr. Owen noted a new report was included to inform the Board of staff's goals for online permitting. By the end of FY2012, staff's goal is to have achieved a minimum of 85 percent application rate for electronic permitting.

21. **Resource Regulation Significant Initiatives**

(Track 7 – 28:26/30:06)

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

## **Resource Management Committee**

### ***Discussion Items***

22. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said although June marks the start of the official four-month rainy season (June through September), rainfall during the month consisted of widely scattered showers, resulting in generally drier-than-average conditions. Drier conditions were especially evident in the northern region of the District. Storms that developed during the month generally tended to be stationary, and often delivered extreme amounts of rainfall in a short period of time in localized areas. The provisional District-wide 12-month rainfall accumulation shows a surplus of approximately 0.78 inch above the long-term average. The 24- and 36-month cumulative rainfall deficits improved during June, ending the month approximately 4.0 and 8.27 inches, respectively, below the historic average. The regionally inconsistent character of June rainfall resulted in locally different responses in hydrologic indicators. Groundwater levels and streamflow conditions posted declines in many areas, but all ended the month within statistical normal ranges. Regional lake levels ended the month at the low-end of the annual normal range in the Tampa Bay region, while remaining at below-normal levels in the Northern, Polk Uplands and Lake Wales Ridge regions. NOAA climate forecasts continue to indicate above-normal rainfall during the wet season (June through September) based on a predicted above-average Hurricane Season. 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. (Track 8 – 00:00/13:02)

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

23. **Utility Outreach Program**

Kenneth R. Herd, P.E., Water Supply Program Director, Resource Projects Department, provided an overview of the District's Utility Outreach Program. The District initiated a Utility Outreach Program to help accomplish the goals and objectives of the District's public water supply related strategic initiatives. The Outreach Program involves proactively working with the 193 water supply utilities within the District on water supply planning and management to assist local governments and utilities in developing and implementing programs to reduce their per capita water use and expand their use of reclaimed water and other alternative sources. Through this collaborative process, the District will inform utilities of key programs and resources, assist in identifying and developing water conservation related programs, and enable the District to better understand specific challenges the utilities face. A Utility Reference Manual was completed in June 2010 that concisely describes key District programs, the benefits to utilities, and where to obtain more information. Outreach teams for the Northern Region, Heartland Region, Tampa Bay Region, and the Southern Region were developed to be

consistent with the updated District's regional water supply planning process. (Track 9 – 00:00/19:30)

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

### ***Submit & File Reports***

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

24. **Proposed Minimum Flows Update for the Homosassa River Prior to Independent Scientific Peer Review**
25. **Proposed Minimum Flows Update for the Upper and Middle Withlacoochee River Prior to Independent Scientific Peer Review**

### ***Routine Reports***

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

26. **Florida Forever Funding**
27. **Minimum Flows and Levels**
28. **Structure Operations**
29. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
30. **Significant Water Supply and Resource Development Projects**  
(Track 9 – 19:30/19:39)

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

## **Outreach and Planning Committee**

***Discussion Items*** – None

***Submit & File Reports*** – None

### ***Routine Reports***

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

31. **Comprehensive Plan Amendment and Related Reviews**
32. **Development of Regional Impact Reviews**
33. **Speakers Bureau**
34. **Significant Activities**
  - Ms. Kavouras said the 2012 Strategic Plan update began last month. In July, the strategic team held its first meeting. The focus of this year's update will be natural systems and water quality strategic initiatives.
  - Ms. Kavouras said it is never too early to teach water conservation to children. The District received the Community Partners of Excellence Award at the June 24, 2010 Headstart/Early Headstart Volunteer Appreciation Banquet. Staff has been working with the Hillsborough County Headstart Schools providing education grants, everything from water conservation curriculum which helps with science and math scores to water wise landscaping.
  - Ms. Kavouras said the District has been certifying several Florida Water Star<sup>SM</sup> Gold homes. Three homes have received Aurora Awards from the Southeast Builders Conference. This is a prestigious award presented to home builders and granted in areas of water wise home, green construction and go green categories.

- Ms. Kavouras noted that each Board member received an outreach card for the Water PRO program for restaurants. When visiting a restaurant that does not participate, she asked that they leave the card with a manager who can visit the website to learn more.  
(Track 10 – 00:00/03:10)

Outreach & Planning Committee Vice Chair Closshey relinquished the gavel to Chair Oakley.

## General Counsel's Report

**Submit & File Reports** – None

### **Routine Reports**

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

36. **Litigation Report**
37. **Rulemaking Update**  
(Track 11 – 00:00/00:17)

## Committee Reports

38. **Basin Board Education Committee Meeting**  
Ms. Rovira-Forino said the meeting was held on July 14, 2010, and included updates on the "Get Outside" campaign, water conservation month (April), bus wraps and the airport promotion; Starkey exhibits ribbon-cutting report; "Skip a Week" campaign results; Tampa Bay Estuary Program education efforts; and Water PRO outreach cards. The workshop for an overview of District education programs will be Thursday, September 16, 2010 at the Tampa Service Office.
39. **Basin Board Land Resources Committee Meeting**  
Mr. Joerger said the Committee met jointly for the second time with the Land Use Stakeholders at the Lecanto Government Center on July 14, 2010. Topics discussed included FY2011 meeting dates, land use and management plans, hunting, recreation monitoring, and multiple use/revenue generation analysis.
40. **Industrial Advisory Committee Meeting**  
Ms. Closshey said the meeting was held on July 20, 2010. Topics discussed included updates on South Pasture Mine Extension Project in Hardee County, integrated water use permitting, rulemaking, Plant City/Dover frost/freeze protection status, hydrologic conditions/drought and water shortage plan, numeric nutrient criteria, and Water Use Condition Data – Permit Information Center.
41. **Public Supply Advisory Committee Meeting**  
Mr. Senft said the meeting was held on July 20, 2010. Topics discussed included the Central Florida Coordination Area, hydrologic conditions/drought, water shortage restrictions and water shortage plan, frost/freeze protection status, hydrologic conditions/drought and water shortage plan, numeric nutrient criteria, Water Use Condition Data – Permit Information Center, and rulemaking.
42. **Well Drillers Industry Advisory Committee Meeting**  
Mr. Oakley said the meeting was held on July 21, 2010. Topics discussed included Hillsborough County pump inspections, limiting groundwater quantities and consideration of a more equitable approach for assigning well mitigation responsibility in the Dover Area, changes to the Department of Environmental Protection Minimum Construction Requirement per Chapter 62-532, F.A.C.; introduction to the new State of Florida Well Construction Permit and Well Completion Report forms and modifications/enhancements to the WMIS Well Construction Portal, and how to use the District's Permit Map Viewer.  
(Track 11 – 00:17/08:20)

## Executive Director's Report

### 43. Executive Director's Report

- Mr. Moore said one of the Permitting Summer School panel discussions was water management—where it has come from and where it is heading—and emphasis was on the needs for legislative change. He and Mr. Senft attended a two-day workshop in the MyRegion.org area with experts from around the country to develop a work plan relative to the Orlando general area. He said the two common threads in discussions were conservation (consistent approaches by the five districts, per capita calculations, permit renewal quantity reductions remove incentive) and funding (eligible for state or district alternative supply funding dollars, restoration of funding state wide). Legislative change to further encourage the development of multi-jurisdictional entities to address issues. Other concerns discussed included permit durations, conjunctive uses, districts wear too many hats creating conflicts of interest and should either be a regulatory or a funding entity, collaborative efforts creating stakeholder teams, and clarity of mission for each district. Mr. Moore noted that, if Board members want to receive the presentation, they should send their request by email to Ms. Kavouras. Mr. Senft said the MyRegion.org workshop stressed thinking regionally across district lines and water plans for regions such as Tampa to Daytona area as a super region. He said a topic of concern was the statewide stormwater rule and the fact that it does not deal directly with stormwater draining into wetlands. Mr. Senft said harvesting stormwater and using it as a source was discussed as well. He noted that, at both events, this District is recognized and complimented for its method of funding, basins, advisory committees and other ways issues are handled. Mr. Tharp said he attended a session at the Permitting Summer School on conservation and there are many opportunities to think out of the box to introduce new innovative ideas. He said he felt the sessions were valuable and it should be mandatory for new Board members. (Track 11 – 08:20/20:25)

In response to Ms. Closshey's questions, Mr. Wirth said the desalination plant is on standby since water is available from surface water sources. Mr. Moore said the plant is not idle and water is circulating. Ms. Closshey requested a status report at next month's meeting.

## Chair's Report

### 44. Chair's Report

- Chair Oakley thanked staff for their work in dealing with the items presented today.
- Chair Oakley noted the announcements listed on the agenda and that next month's meeting is in Wauchula.

There being no further business to come before the Board, Chair Oakley adjourned the meeting until the next regularly scheduled meeting. (Track 11 – 20:25/23:25)

The meeting was adjourned at 2:18 p.m.