

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

JULY 31, 2012

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:04 a.m. on July 31, 2012, at the District's headquarters in Brooksville. The following persons were present:

Board Members Present

H. Paul Senft, Chair
Hugh Gramling, Vice Chair
Douglas B. Tharp, Secretary
Albert G. Joerger, Treasurer
Michael A. Babb, Member
Carlos M. Beruff, Member
Bryan K. Beswick, Member
Jennifer E. Closshey, Member
Randall S. Maggard, Member
Todd Pressman, Member
Judith C. Whitehead, Member

Board Member(s) Absent

Jeffrey M. Adams, Member

Staff Members

Blake C. Guillory, Executive Director
Laura J. Donaldson, General Counsel
Robert R. Beltran, Assistant Executive Director
David T. Rathke, Chief of Staff
Kurt P. Fritsch, Division Director
Mark A. Hammond, Division Director
Michael L. Holtkamp, Division Director
Alba E. Más, Division Director

Board's Administrative Support

LuAnne Stout, Administrative Coordinator
Linda De Jonge, Senior Administrative Asst.

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 (Video A – 00:00)

1. Call to Order

Chair Senft called the meeting to order at 9:04 a.m. and opened the public hearing. Mr. Tharp noted a quorum was present.

2. Pledge of Allegiance and Invocation

Chair Senft led the Pledge of Allegiance to the Flag of the United States of America. Mr. Rathke offered the invocation.

Public Hearing

Chair Senft 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 Senft 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 Senft 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 – 00:00/03:55)

3. **Additions/Deletions to Agenda**

Mr. Guillory noted there are no additions or deletions. He said that the following items were moved for discussion purposes:

CONSENT AGENDA

Regulation Committee

The following item was moved to discussion and a revised staff recommendation will be presented:

6. Consider Extending Modified Phase II Restrictions in Select Central Counties

General Counsel's Report

The following item was moved to discussion:

16. c. Initiation of Litigation – Surface Water Activity – Robert J. Colvin and Mary A. Colvin – Lake County

OPERATIONS & LAND MANAGEMENT COMMITTEE

The following item was moved for presentation on the Regulation Committee:

30. Hydrologic Conditions Status Report

Mr. Tharp moved, seconded by Mr. Gramling, to approve the amended agenda. Motion carried unanimously. (Track 1 – 03:55/04:40)

4. **Ceremony to Honor C.A. "Neil" Combee, Jr. for His Service on the Governing Board**

The ceremony occurred later in the meeting.

5. **Public Input for Issues Not Listed on the Published Agenda** – None

CONSENT AGENDA (Video – 05:30)

Items 6 and 16.c. were moved for discussion purposes.

Regulation Committee

6. **Consider Extending Modified Phase II Restrictions in Select Central Counties**

This item was moved for discussion during the Regulation Committee portion of the meeting.

7. **Consider Expiration of Modified Phase III Restrictions in Northern Counties**

Staff recommended the Board allow Water Shortage Order No. SWF 2012-003 to expire on July 31, 2012, which means that Modified Phase I restrictions from Water Shortage Order No. SWF 2010-022 would go back into full force and effect in Citrus, Hernando, Lake, Levy and Sumter counties and two portions of Marion County.

8. **Individual Water Use Permits (WUPs) Referred to the Governing Board – WUP No. 20020253.000 – Flint Properties I & II, LLC / Flint Properties (Sarasota County)**

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

Operations & Land Management Committee

9. **Utility Easement to Withlacoochee River Electric Cooperative for Utility Upgrades at the Weeki Wachee Springs State Park, SWF Parcel No. 15-773-215X**

Staff recommended the Board approve the utility easement to Withlacoochee River Electric Cooperative (SWF Parcel No. 15-773-215X).

Resource Management Committee

10. **Implement Best Management Practices (BMPs) in the Brooker Creek Watershed in Improvement Areas 1, 2, 11 and Toniwoods South Outfall – First Amendment**

Staff recommended the Board approve the first amendment to the agreement with Pinellas County to revise the scope of work, and authorize the Division Director to execute the amendment.

11. **Braden River Utilities Soil Moisture Sensor Rebate Program – First Amendment**
Staff recommended the Board approve the first amendment to the existing agreement with BRU to change the Project Manager for the District, update contract language, refine the project's budget, revise the project's schedule, and add an approved soil moisture sensor; and authorize the Division Director to execute the amendment.
12. **Polk County Landscape and Irrigation Evaluation – First Amendment**
Staff recommended the Board approve the first amendment to the agreement with Polk County to adjust the project's schedule and scope of work and reduce the total cost of the project from \$250,840 to \$182,820, thereby reducing the District's and the County's funding obligation from \$125,420 to \$91,410; and authorize the Division Director to execute the amendment.
13. **Facilitating Agricultural Resource Management Systems (FARMS)**
 - a. **Flint Properties II, LLC and Trust (H674), Manatee and DeSoto Counties**
Staff recommended the Board:
 - (1) Approve the Robert Flint project for a not-to-exceed project reimbursement of \$151,507 with \$151,507 provided by the Governing Board;
 - (2) Authorize the transfer of \$151,507 from fund 010 H017 Governing Board FARMS Funds to the 010 H674 Robert Flint project fund; and
 - (3) Authorize the Resource Management Division Director to execute the agreement.
 - b. **Hawk Produce, Inc. (H675), Hillsborough County**
Staff recommended the Board:
 - (1) Approve the Hawk Produce, Inc. project for a not-to-exceed project reimbursement of \$33,600 with \$33,600 provided by the Governing Board;
 - (2) Authorize the transfer of \$33,600 from fund 010 H017 Governing Board FARMS funds to the 010 H675 Hawk Produce, Inc. project fund; and
 - (3) Authorize the Resource Management Division Director to execute the agreement.
 - c. **Deshong Strawberry Patches, Inc. (H676), Hillsborough County**
Staff recommended the Board:
 - (1) Approve the Deshong Strawberry Patches, Inc. project for a not-to-exceed project reimbursement of \$44,700 with \$44,700 provided by the Hillsborough River Basin Fund;
 - (2) Authorize the transfer of \$44,700 from fund 013 H017 Hillsborough River Basin FARMS funds to the 013 H676 Deshong Strawberry Patches, Inc. project fund; and
 - (3) Authorize the Resource Management Division Director to execute the agreement.
 - d. **Berry Patches, Inc. - Phase 2 (H677), Hillsborough County**
Staff recommended the Board:
 - (1) Approve the Berry Patches, Inc. - Phase 2 project for a not-to-exceed project reimbursement of \$49,800 with \$49,800 provided by the Governing Board;
 - (2) Authorize the transfer of \$49,800 from fund 010 H017 Governing Board FARMS funds to the 010 H677 Berry Patches, Inc. – Phase 2 project fund; and
 - (3) Authorize the Resource Management Division Director to execute the agreement.
 - e. **Aprile Properties, LLC (H678), Hillsborough County**
Staff recommended the Board:
 - (1) Approve the Aprile Properties, LLC project for a not-to-exceed project reimbursement of \$103,575 with \$103,575 provided by the Hillsborough River Basin Fund;
 - (2) Authorize the transfer of \$103,575 from fund 013 H017 Hillsborough River Basin FARMS funds to the 010 H678 Aprile Properties, LLC project fund; and
 - (3) Authorize the Resource Management Division Director to execute the agreement.
14. **Sarasota County – Englewood Community Redevelopment Area Stormwater Retrofit Project (N306) – Budget Transfer**
Staff recommended the Board:
 - (1) Approve the transfer of \$1,290,000 from the Sarasota County Cow Pen Slough Weir Construction Project (N342) to the Sarasota County Englewood CRA Stormwater Retrofit Project (N306); and
 - (2) Authorize the Resource Management Division Director to execute the amendment to the Sarasota County Englewood CRA Stormwater Retrofit Project (N306).

Finance & Administration Committee

15. **Budget Transfer Report**

Staff recommended the Board approve the Budget Transfer Report covering all budget transfers made during the month of June 2012.

General Counsel's Report

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

a. **Interagency Agreement between the SFWMD and the SWFWMD – Designation of Regulatory Responsibility – Highland Farms – Highlands County**

Staff recommended the Board approve the Interagency Agreement between the SFWMD and the SWFWMD for Designation of Regulatory Responsibility for Highland Farms, Inc. in Highlands County.

b. **Interagency Agreement between the SFWMD and the SWFWMD – Designation of Regulatory Responsibility – Santa Rosa Ranch II Wetland Restoration Project – Highlands County**

Staff recommended the Board approve the Interagency Agreement between the SFWMD and the SWFWMD for Designation of Regulatory Responsibility for the Santa Rosa Ranch II Wetlands Restoration Project located in Highlands County.

c. **Initiation of Litigation – Surface Water Activity – Robert J. Colvin and Mary A. Colvin – Lake County** – This item was moved for discussion during the General Counsel's Report portion of the meeting.

d. **Settlement Agreement – SWFWMD v. Dollar Golf, Inc. and The Trails at Rivard Homeowners' Association, Inc. (Civil Case No. CA11-2865)**

Staff recommended the Board approve the Settlement Agreement between the Southwest Florida Water Management District, Dollar Golf, Inc. and The Trails at Rivard Homeowners' Association.

17. **Rulemaking**

a. **Initiation and Approval of Rulemaking to Amend the Noticing Requirements Pursuant to the Issuance of a Water Shortage Declaration under Chapter 40D-21, Florida Administrative Code (F.A.C.)**

Staff recommended the Board initiate and approve rulemaking to amend Rule 40D-21.275, F.A.C., to clarify that the District will issue a Notice of Water Shortage by regular mail to each Permittee whose permit will be affected or whose permitted water use will otherwise be restricted by the issuance of a Water Shortage Declaration and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

b. **Approval of Revised Rule Language to Amend Rule 40D-8.041, F.A.C., to Adopt Minimum Flows for the Lower Myakka River**

Staff recommended the Board approve the revised rule language amending Rule 40D-8.041, F.A.C., to adopt minimum flows for the Lower Myakka River and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

Executive Director's Report

18. **Annual Calendar of Fiscal Year 2012-13 Meeting Dates**

Staff recommended the Board approve the FY2012-13 annual Board meeting calendar.

19. **Approve Governing Board Minutes – June 26, 2012 Monthly Meeting**

Staff recommended approving the minutes as presented.

Mr. Tharp moved, seconded by Mr. Beruff, to approve the Consent Agenda as amended. Motion carried unanimously. (Track 1 – 04:40/06:04)

At this time, the Board altered the published agenda to consider Item 42 to accommodate the public in attendance.

Chair Senft relinquished the gavel to Resource Management Committee Chair Gramling who called the Committee meeting to order. (Track 1 – 06:04/07:21)

RESOURCE MANAGEMENT COMMITTEE (Video – 07:15)

Discussion Items

42. **Lakes Horse, Raleigh, and Rogers Recovery Project Update (B027)**

Mr. Hammond noted that, at the May 2012 Governing Board meeting, the Board took action on a Mutual Use Agreement (MUA) and a Maintenance Agreement (MA) with Hillsborough County and requested a staff presentation in response to public comments.

Mr. Warren Hogg, Tampa Bay Water (TBW), briefly summarized the history of these lakes and TBW's involvement. He reviewed the Cosme-Odesa Wellfield's ownership and pumpage history. He noted that the City of St. Petersburg owned/operated the wellfield from around 1930 until 1998. Since 1998, TBW has operated the wellfield as part of the Consolidated Permit which is 11 wellfields operating as one system (pumpage rotation between wellfields). He reviewed the historical condition of lakes Raleigh and Rogers with aerial photographs and wellfield and rainfall graphs. He said a requirement of TBW's permit is a Phase 1 Mitigation Plan that proposes replenishment and renourishment projects for lakes experiencing low levels. He noted that this project is one of nine approved projects in the mitigation plan. (Track 2 – 00:00/08:26)

Mr. Hammond said the District's responsibility is to set minimum flows and levels (MFLs) for lakes, rivers and streams. He said the Board adopted a recovery strategy and TBW reduced pumpage from 158 million gallons per day (mgd) to 90 mgd. Staff recognized that not all lakes and wetlands would recover based on the pumpage reduction. The District also had the responsibility to approve the mitigation plan in the Consolidated Permit and entered into a cooperative funding project with TBW for implementation. The District is responsible for ensuring that MFLs are met and that a recovery strategy be implemented if they are not going to be met. The purpose of this project is to divert a small portion of high flows from Rocky Creek when Pretty and Armistead lakes are at or above normal operating levels. When water is flowing over the Pretty Lake structure and over the operating level at Lake Armistead, the project will pump water from Pretty Lake to lakes Horse, Raleigh, and Rogers, similar to temporary projects completed in 1997/98 and 2002/03. (Track 2 – 08:26/15:30)

Mr. Hammond noted three public meetings were held. The first public meeting was just after property was purchased for the project to inform the public of the status. A second meeting was held in response to residents' comments at a TBW Board Meeting. The third meeting was held at the request of the Governing Board. Mr. Hammond reviewed the cost and status of the project. Construction is anticipated to be about \$3.2 million and the District's share is \$1.6 million. The District has spent about \$576,000 on land acquisition. The District and TBW have invested about \$250,000 in the feasibility study and design to date), and design is almost 30 percent complete. Hillsborough County denied the Mutual Use and Maintenance Agreements on July 18, 2012, due to project concerns, and TBW has submitted a letter to the District suggesting an evaluation of alternatives to the project. (Track 2 – 15:30/18:50)

Mr. Hammond said staff is recommending the Board authorize staff, in cooperation with Tampa Bay Water and the public, to explore alternatives to the Lakes Horse, Raleigh, and

Rogers Recovery Project, including a no-project alternative, recognizing that the option selected must have the concurrence of Tampa Bay Water due to the existing project contractual obligation. (Track 2 – 18:50/19:13)

Mr. Beruff asked for clarification regarding flow of water complaints by residents, and TBW's role. (Track 2 – 19:13/23:05)

Mr. Joerger moved to place an easement on District property which would allow execution of the project in the future or resell the property, and suspend the project and work with TBW through staff to come up with another project to mitigate. Mr. Pressman seconded the motion. (Track 2 – 23:05/23:43).

Board discussion ensued regarding the TBW letter to evaluate other alternatives, staff's recommendation relative to the motion on the floor, District control of structure overflow, and funds already expended for project. Ms. Donaldson noted that the District is contractually obligated to this project and staff's recommendation provides a no-project option recognizing that when that occurs it will have to go back to the District and TBW because of contractual obligations.

Mr. Joerger restated his motion to accept staff's recommendation and include placing an easement on District property that would allow property. Mr. Pressman withdrew his second. The motion failed for lack of a second. (Track 2 – 23:43/35:00)

Following further discussion, **Mr. Tharp moved, seconded by Ms. Closshey, to authorize staff, in cooperation with Tampa Bay Water and the public, to explore alternatives to the Lakes Horse, Raleigh, and Rogers Recovery Project, including a no-project alternative, recognizing that the option selected must have the concurrence of Tampa Bay Water due to the existing project contractual obligation.** (Track 2 – 35:00/37:25)

Ms. Closshey requested staff and TBW to be aware of the environment and any flooding issues. In response to Mr. Beruff's inquiry, Ms. Donaldson explained the process leading to the District taking the project lead. Mr. Beruff suggested that a policy be considered that requires cooperators to get everything done and deliver a project that is ready for construction before the District becomes the project lead. Discussion ensued. (Track 2 – 37:25/44:30)

Committee Chair Gramling opened the floor for public comment and recognized each person who submitted a *Request to Speak* card. These cards are filed in the permanent records of the District. (Track 2 – 44:30/01:27:40)

Following public comment, Committee Chair Gramling called the question. **Motion carried unanimously.** (Track 2 – 01:27:40/01:28:04)

Mr. Babb requested staff to report back on water levels in Rocky Creek Lakes in about four months regarding issues and possible solutions.

Resource Management Committee Chair Gramling recessed the Committee meeting and relinquished the gavel to Chair Senft. (Track 2 – 01:28:04/01:29:14) (Video – 97:00)

4. **Ceremony to Honor C.A. “Neil” Combee, Jr. for His Service on the Governing Board**
Chair Senft presented Mr. Combee with a plaque and framed resolution to honor his service from April 2005 to May 2012 and as chair from May 2008 to May 2009. The Board reiterated its approval of the resolution approved at last month’s meeting. Mr. Combee expressed his appreciation for the honor of serving on the District’s Board and to staff for their support. (Track 3 – 00:00/11:59)

The order of consideration returned to the published agenda.

Chair Senft relinquished the gavel to Regulation Committee Chair Beswick who called the meeting to order. (Track 4 – 00:00/00:13)

REGULATION COMMITTEE (Video – 109:00)

Ms. Más noted that Item 30 will be presented before the Board considers Item 6.

Discussion Items

30. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, Data Collection Bureau, said June marks the start of the official four-month rainy season (June through September) and rainfall totals for the month saw accumulations well above-normal in all regions of the District. Rainfall during the first three weeks of June began normally, with typical scattered and regionally variable showers/thunderstorm activity. Severe weather conditions occurred on June 23-26 associated with Tropical Storm Debby, which brought gusty winds, extensive rainfall, approximately 51 percent of the month’s total rainfall, moderate to severe localized flooding in some areas, and nearly 8.0 inches of rainfall District-wide with local accumulations of over 15.8 inches reported. Rainfall amounts received in the Northern region during June set a new record high for rainfall accumulations in a single month. District-wide, the provisional 12-month cumulative rainfall deficit was erased in June and ended the month at a surplus of approximately 1.43 inches above the long-term historical average. The 24-month deficit improved and was reduced to approximately 6.8 inches below the long-term historical average. The abundant rainfall associated with Tropical Storm Debby erased “drought” conditions throughout the District and allowed declining hydrologic indicators to significantly improve. Sharp rises in surface water and groundwater levels were seen during and after the heavy rainfall event. Groundwater and streamflow conditions have rebounded to normal or above-normal levels throughout the District. Regional lake levels saw significant improvements, with the Tampa Bay region rebounding back into the annual normal range, while the Northern, Polk Uplands and Lake Wales Ridge regions remained at below-normal levels. (Track 4 – 00:13/08:39)

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

20. **Consent Item(s) Moved for Discussion** – Item 6 (Video – 117:32)

6. **Consider Extending Modified Phase II Restrictions in Select Central Counties**

Ms. Más said that, due to improved conditions, staff recommends the Board not extend the Modified Phase II restrictions and allow Executive Director Order No. SWF 2012-005 to expire.

Ms. Closshey moved, seconded by Mr. Beruff, to allow Executive Director Order No. SWF 2012-005 to expire. Motion carried unanimously. (Track 5 – 00:00/01:14)

21. **Consider Concurrence with Issuance of Executive Director Order for Use of the Alafia River Project** (Video – 118:42)

Ms. Más said staff is requesting the Board authorize issuance and concur with Executive Director Order No. SWF 2012-008, providing for a temporary increase in the allowable percentage withdrawal from the Alafia River Project from 10 percent to 19 percent when the flow exceeds 80 million gallons per day and expires November 15, 2012. On February 4, 2003, Tampa Bay Water (TBW) was issued a permit to withdraw 10 percent of the total flow from the Alafia River when the flow exceeds 80 million gallons per day or 124 cubic feet per second. On July 2, 2012, TBW requested emergency authorization to temporarily increase the allowable percentage to 19 percent. The current circumstances that have created the need to consider this request include the combination of an extended drought period, the drawdown of the reservoir for repairs and the current rainfall patterns. In response to TBW's request, District staff drafted an Executive Director Order which authorizes the requested 19 percent withdrawal rate and also requires ongoing compliance with additional District water shortage orders and any more stringent local restrictions. (Track 6 – 00:00/03:08)

Ms. Donaldson reminded the Board that TBW has a pending in-house application requesting this withdrawal increase, and there is a potential for a permit challenge for which the Board would review the final order.

Discussion ensued regarding process clarification, Alafia River minimum flows and levels, and desalination plant timeline. Mr. Tharp requested TBW to provide a status report on the desalination plant at the Board's next meeting. (Track 6 – 03:08/09:00)

Mr. Beruff moved, seconded by Ms. Closshey, to authorize issuance of Executive Director Order No. SWF 2012-008. Motion carried unanimously. (Track 6 – 09:00/09:40)

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

Submit & File Report

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

23. **Public Supply Report**

Routine Reports

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

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

25. **Overpumpage Report**

In response to Mr. Tharp's question, Ms. Más said staff, along with Office of General Counsel staff, have set up a schedule to pursue these cases. Ms. Donaldson said there is an overpumpage formula which includes a number of variables to arrive at the penalty. (Track 6 – 09:40/13:07)

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

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

28. **Resource Regulation Significant Initiatives**

Resource Regulation Committee Chair Beswick adjourned the Committee meeting and relinquished the gavel to Operations & Land Management Committee Chair Babb who called the meeting to order. (Track 6 – 13:07/13:17)

OPERATIONS & LAND MANAGEMENT COMMITTEE (Video – 131:58)

Discussion Items

29. **Consent Item(s) Moved for Discussion** – None
30. **Hydrologic Conditions Status Report**
This item was heard earlier in the meeting during the Regulation Committee.

Submit & File Reports

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

31. **Tropical Storm Debby Emergency Operations Activities**
In response to Committee Chair Babb's question, Mr. Roy Mazur, Chief, Operations and Land Management Bureau, said there were numerous lessons learned in relation to the water control structures and working with county emergency management staff.
32. **Surplus Lands Assessment Update**
33. **Flying Eagle Nature Center Update**
Mr. Tharp thanked staff for the great job done on the prospectus. In response to Mr. Tharp's questions, Ms. Cheryl Hill noted there have been four site visits for potential partners, and the Request for Proposal will be released on August 17, 2012, for 60 days.

Routine Reports

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

34. **Structure Operations**
35. **Significant Activities**

Operations and Land Management Committee Chair Babb adjourned the Committee meeting and relinquished the gavel to Outreach and Planning Committee Vice Chair Closshey who called the Committee meeting to order. (Track 7 – 00:00/03:26)

OUTREACH & PLANNING COMMITTEE (Video – 135:280)

Discussion Items – None

Submit & File Reports – None

Routine Reports

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

36. **Comprehensive Plan Amendment and Related Reviews**
37. **Development of Regional Impact Activity Report**
38. **Significant Activities**

Outreach and Planning Committee Vice Chair Closshey adjourned the Committee meeting and relinquished the gavel to Resource Management Committee Chair Gramling who reconvened the Committee meeting. (Track 8 – 00:00/00:33)

RESOURCE MANAGEMENT COMMITTEE (Video – 136:00)

Discussion Items

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

40. **Aquifer Storage and Recovery Arsenic Issue Update (H046)**

Mr. Don Ellison, Senior Professional Geologist, Water Resources Bureau, provided a brief update and status on the progress made in solving the arsenic mobilization issue at Aquifer Storage and Recovery (ASR) projects in the District. Several projects have been cancelled or put on indefinite hold due to the uncertainty resulting from the arsenic mobilization issue. ASR is the storage of treated surface water or reclaimed water in the aquifer for future use. Over the last several years, the District has emerged as one of the national leaders in the advancement of both ASR technology and research.

Ms. Closshey requested another presentation in the future so the Board can understand the implications to the District and benefits of the program. (Track 9 – 00:00/08:20)

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

41. **Fiscal Year 2013-14 Cooperative Funding Initiative** (Video – 144:13)

Mr. Hammond provided an update on the Fiscal Year 2013-14 Cooperative Funding Program and an overview of Board Policy 130-4 "Cooperative Funding Initiative" which was last updated in December 2011. He reviewed the proposed schedule for the FY2013-14 Cooperative Funding Program. Mr. Hammond said the schedule includes moving up the Cooperative Funding Program application deadline by two months from December to October. He said this change will allow staff more time to work with the applicants and review the projects prior to the subcommittee meetings. (Track 10 – 00:00/05:50)

Ms. Closshey said she supports the proposal to move the dates as outlined and requested emphasis on requiring cooperators to provide more upfront analysis and detail for staff to make a meaningful and beneficial review. She suggested the Board allocate time for a workshop on the Board policy relative to defining the District's role and relationship with cooperators. (Track 10 – 05:50/07:20)

Mr. Tharp expressed concern for the quality of input from cooperators requesting projects due to providing the information two months earlier and asked staff to be lenient with deadlines for the first year. (Track 10 – 07:20/11:55)

Chair Senft said he agreed with the request for a workshop on the Board policy. Since the Board is in agreement, he asked staff to schedule time at a subsequent Board meeting. Mr. Maggard stated his agreement with scheduling a workshop.

Mr. Beruff noted that most entities have their budgets set by October 1 so cooperators will have the information required for the District's review. (Track 10 – 11:55/15:12)

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

42. **Lakes Horse, Raleigh, and Rogers Recovery Project Update (B027)**

This item was considered earlier to accommodate the public in attendance.

Submit & File Reports – None

Routine Reports

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

43. **Minimum Flows and Levels**
44. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
45. **Significant Water Supply and Resource Development Projects**

Resource Management Committee Chair Gramling adjourned the Committee meeting (Track 10 – 15:12/15:27) and relinquished the gavel to Finance and Administration Committee Chair Joerger who called the Committee meeting to order. (Track 11 – 00:00/01:25)

FINANCE & ADMINISTRATION COMMITTEE (Video – 159:44)

Discussion Items

46. **Consent Item(s) Moved for Discussion** – None
47. **Fiscal Year (FY) 2012-13 Budget Development**
 - a. **FY2012-13 Budget Update since June 26, 2012**

Mr. Fritsch reviewed proposed budget changes since the June 26, 2012 meeting, and communicated the results of the July 20 meeting in Tallahassee. Since June 26, the proposed budget for the August 1 tentative budget submission has been reduced by \$9.9 million, from \$169.5 million to \$159.7 million, subject to approval by the Governing Board on July 31.

 - (1) Annual contingency funds of \$7 million have been removed from the budget to promote greater transparency and accountability. Contingency funds are not required to be budgeted. Further, the Governing Board has approved Policy 130-9, Fund Balance, establishing an Economic Stabilization Fund that can be accessed in an emergency.
 - (2) The land acquisition budget has been reduced by \$2.3 million, from \$5.1 million to \$2.8 million.
 - (3) Merit increases to retain and reward outstanding performance have been removed from the budget in order to maintain consistency with the state and other water management districts, resulting in a budget reduction of \$569,069.
 - (4) There were other minor adjustments, primarily staffing changes, resulting in a net increase of \$36,643.
 - b. **Adoption of Proposed District Millage Rate for FY2012-13**

Mr. Fritsch presented the certifications of taxable value and the proposed FY2012-13 District millage rate, in compliance with Florida Statutes. Taxable property values in the District have decreased by 2.87 percent, ranging from an increase of 5.29 percent in Sumter County to a decrease of 11.15 percent in Levy County. Based on the certified values, staff has increased the ad valorem revenue budget by \$130,001 above the amount reflected in the Recommended Annual Service Budget, now \$100.5 million.
 - c. **Approval of August 1 Standard Format Tentative Budget Submission**

Mr. Fritsch said staff recommends the Board approve submission of the *Standard Format Tentative Budget Submission* to the Executive Office of the Governor, Department of Environmental Protection, Florida Legislature and other parties, as required by statute, for delivery by August 1, 2012. The report reflects the budget as approved by the Governing Board on June 26, decreased by \$9,862,426, with changes to be discussed in item a. above.

d. **Assignment of Funds to District's Short-Term Projects Reserve**

Mr. Fritsch said staff requests the Board assign \$21.7 million in available funds to the District's Short-Term Projects Reserve as part of fund balance. These one-time funds result from the extensive encumbrance review this year, combined with the 19 percent reduction in operating expenditures.

Chair Senft said he recommended moving the public budget hearings to 6:00 p.m. to allow the public to attend after working hours. (Track 11 – 01:25/10:00)

Staff recommended the Board:

- (a) Approve the budget changes that have been made since the June 26, 2012 Governing Board meeting for a reduction of \$9,862,426, and a revised budget totaling \$159,661,275.
- (b) Approve Resolution No. 12-07, Adoption of Proposed District Millage Rate for Fiscal Year 2012-13.
- (c) Approve the *Standard Format Tentative Budget Submission* report due August 1 to be submitted to all parties required by Section 373.536(5)(d), Florida Statutes.
- (d) Assign \$21.7 million in available funds to the District's Short-Term Projects Reserve, established by Board Policy Number 130-9.

Ms. Closshey moved, seconded by Committee Chair Joerger, to approve the staff recommendation. Committee Chair Joerger thanked Mr. Fritsch and his staff for the budget which reflects the current times. **Motion carried unanimously.** (Track 11 – 10:00/11:20)

Submit & File Reports – None

Routine Reports

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

48. **Treasurer's Report, Payment Register and Contingency Funds Report**
49. **Monthly Financial Statement**
50. **Monthly Cash Balances by Fiscal Year**

Finance and Administration Committee Chair Joerger adjourned the Committee meeting and relinquished the gavel to Chair Senft. (Track 11 – 11:20/11:49, Track 12 – 00:00/01:13)

The meeting recessed to provide a lunch break at 11:55 a.m. and reconvened at 12:53 p.m.

GENERAL COUNSEL'S REPORT (Video – 173:00)

Consent Agenda Item 16.c. was moved for discussion.

Discussion Items

51. **Consent Item(s) Moved for Discussion** – Item 16.c.

- 16.c. **Initiation of Litigation – Surface Water Activity – Robert J. Colvin and Mary A. Colvin – Lake County**

Ms. Donaldson noted Mr. and Mrs. Colvin are present to address the Board.

Ms. Ronni Moore, Senior Attorney, provided a chronological history of events occurring since November 8, 2008, when the District received a complaint from the Florida Department of Environmental Protection (FDEP) concerning wetland

dredging and filling on property located in Lake County owned by Robert and Mary Colvin. Staff and the owners have met numerous times in the intervening years. On January 23, 2012, the owners proposed removing a portion of the fill and a revised proposed consent order was sent assessing penalties and costs totaling \$62,300. In response to the revised proposed consent order, staff again met with the owners at their request to discuss restoration requirements that would off-set the penalty amount. The owners were informed their case will be on the July Governing Board meeting agenda unless a settlement could be reached in the interim. The District has not received any correspondence from the owners in response.

Ms. Moore said staff recommends the Board authorize the initiation of litigation against Robert and Mary Colvin and any other appropriate parties to obtain compliance, to recover an administrative fine/civil penalty for the violations, and to recover District enforcement costs, court costs and attorney's fees. (Track 13 – 00:00/05:50)

Ms. Donaldson reminded Board members that, should the Board approve seeking the initiation of litigation, this issue could ultimately come back before the Board as a Department of Administrative Hearing proceeding.

Discussion ensued regarding clarification of activities on the land and impacts.

Ms. Donaldson said District staff is willing to offset the penalty if the Colvins provide a financial affidavit and prove hardship. (Track 13 – 05:50/09:57)

Mr. and Mrs. Colvin addressed the Board. Mrs. Colvin explained that, in 1997, the District contacted them to check the property due to the amount of mining occurring around their property. From a flyover, staff observed work on their property. The ditches have existed since the 1940s, and they only cleaned and maintained the ditches; they have been farming the property since 1966. The District employee visited the site and told them they did not need a permit since they were not mining the dirt; it was strictly agriculture. They continued to clean the ditches and spread the fill over their property. The timber was harvested and sold to pay for the property in 1974. The Colvins then heard nothing more for 11 years. Then in 2008 they received a letter saying a huge fine was owed. (Track 13 – 09:57/12:45)

Board members asked clarifying questions. Ms. Donaldson noted that the Florida Department of Agriculture and Consumer Services visited the site last year, and determined that the southern portion was not agriculture activities and the northern portion activities pre-exist the regulatory scheme. (Track 13 – 12:45/20:00)

In response to Mr. Beruff's question about why the financial affidavit was not filed, Mrs. Colvin said they were told to provide their Social Security Numbers and tax returns for the past five years plus additional information. Ms. Donaldson said, to offset the penalty, a financial affidavit is required listing their assets, liabilities and expenses. She noted that unauthorized activities have occurred and they are obligated to restore the property. (Track 13 – 20:00/22:00)

Discussion ensued regarding when activities occurred on the property and the litigation process. (Track 13 – 22:00/30:20)

Ms. Moore briefly reviewed the events of 1997. After staff's visit, a flyover showed that restoration work was occurring and the case was closed. Discussion ensued

regarding possible wetland impacts. Mr. Colvin explained his agriculture activities. (Track 13 – 30:20/37:00)

Mr. Gramling moved, seconded by Mr. Beruff, for staff to work closely with the Colvins to resolve the issues on the financial documents, show them several alternatives to mitigate the damage done, and to authorize initiation of litigation in three months if aforementioned actions do not occur. Staff will work with Colvins and provide requirements in writing. (Track 13 – 37:00/43:50)

(Mr. Joerger left the meeting.)

Ms. Donaldson said the Colvins can apply for an environmental resource permit or restore the property. She noted that the District's regulatory staff can assist in developing the restoration plan. Discussion ensued regarding mitigation issues and not setting a precedent with this case. (Track 13 – 43:50/49:52)

Chair Senft called the question on the motion. **Motion carried unanimously.** (Track 13 – 49:52/50:22)

Chair Senft relinquished the gavel to Vice Chair Gramling.

52. **Lake Region Lakes Management District (LRLMD) Request to Transfer Ownership of the P-5, P-6, P-7 and P-8 Water Control Facilities in Polk County** (Video – 223:33)

Ms. Donaldson said the District received a draft interlocal agreement from LRLMD for the conveyance, operation and maintenance of the District's P-5, P-6, P-7 and P-8 water control structures, adjacent canals and associated equipment serving the property and structures. She said staff requests the Board provide direction as to which option to pursue with LRLMD in response to its request for conveyance of structures, associated canals and all equipment serving such structures and canals.

Mr. Holtkamp provided background information, noting the geographic location and history of the structures. He also reviewed the yearly maintenance costs which are approximately \$35,000. On October 18, 2001, the District entered into a ten-year Cooperative Agreement for operation and maintenance of structures (with District oversight). On October 18, 2011, the Cooperative Agreement expired and the District resumed operation of structures; funds are budgeted in FY2012 to automate structures for remote control. On October 31, 2011, Chair Senft and Mr. Guillory meet with Mr. Roger Griffiths, LRLMD Executive Director, to discuss the possible transfer of structures. On March 15, 2012, Mr. Griffiths provided to Mr. Guillory a draft interlocal agreement for the transfer of ownership. (Track 14 – 00:00/07:40)

Ms. Donaldson reviewed five options available to the Board for consideration as it relates to the long-term disposition and operation and maintenance of the P-5, P-6, P-7 and P-8 water control structures, canals and associated equipment:

- Option 1: Convey ownership of the facilities to the LRLMD as requested with a caveat to show they are able to operate through the life of the structures.
- Option 2: Enter into a new cooperative agreement with the LRLMD for the operation and routine maintenance of the facilities (with District oversight).
- Option 3: Retain ownership, operation and maintenance of the facilities.
- Option 4: Convey ownership of the facilities to the City of Winter Haven.

Option 5: Determine if other local governments, in addition to the City of Winter Haven, are interested in ownership or maintenance and possibly issue a Request for Proposal.

Discussion ensued regarding local water supply planning, local ownership, adding instrumentation to the structures, and yearly costs. (Track 14 – 07:40/15:15)

Mr. Beruff moved, seconded by Mr. Tharp, to approve Option 3. (Track 14 – 15:15/18:00)

Committee Chair Gramling opened the floor for public comment and recognized each person who submitted a *Request to Speak* card. These cards are filed in the permanent records of the District. Mr. Steve Enzor, representing the LRLMD Commission, and Mr. Roger Griffiths, the LRLMD Executive Director, submitted speaker cards and each addressed the Board. Other speaker cards submitted were from Mr. David Glogowski, representing the Lake Henry Citizens Committee, and Mr. Mike Britt, representing the City of Winter Haven. (Track 14 – 18:00/49:13)

Discussion ensued regarding the transfer request, LRLMD's position that the Board not take action at this meeting, and legislative delegation. (Track 14 – 49:13/54:58)

Motion carried with Mr. Pressman voting in opposition. (Track 14 – 54:58/55:22)

(Mr. Beruff left the meeting.)

53. **Amendment to Resolution Authorizing Proceedings in Eminent Domain for Acquisition of Certain Interests in Land Necessary for the Lake Hancock Lake Level Modification Project** (Video – 278:32)

Mr. Richard V. Neill, Jr., the District's Special Eminent Domain Counsel, noted that the Board exercises the District's power of eminent domain by adopting a resolution that authorizes the acquisition of the necessary interests in land through condemnation proceedings.

Staff recommended the Board adopt Resolution 12-09 which amends Resolution 08-27 by replacing the legal description of one parcel with a corrected description and deleting another parcel that is unnecessary for the project.

Ms. Whitehead moved, seconded by Mr. Tharp, to adopt Resolution 12-09. Motion carried unanimously. (Track 15 – 00:00/02:46)

Submit & File Reports – None

Routine Reports

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

54. **Litigation Report**

Vice Chair Gramling noted that one speaker card had been submitted and recognized Mr. Chester Bradshaw. Speaker cards are filed in the permanent records of the District.

55. **Rulemaking Update** (Track 16 – 00:00/03:57)

COMMITTEE/LIAISON REPORTS (Video – 286:10)

The following reports were provided in the Board meeting materials.

56. **Environmental Advisory Committee Meeting**
57. **Well Drillers Advisory Committee Meeting**
58. **Other Liaison Reports** – None (Track 17 – 00:00/00:40)

Vice Chair Gramling relinquished the gavel to Chair Senft.

EXECUTIVE DIRECTOR'S REPORT (Video – 285:52)

59. **Executive Director's Report**
 - a. **Performance Metrics Dashboard**

Mr. Guillory referenced the "Draft" monthly Dashboard provided for the Board's consideration and comment. He noted that the Dashboard is intended to provide a quick reference of financial indicators and performance metrics for major areas of operations. Chair Senft said the Board should be proud of the work the District's leadership team is doing. (Track 17 – 00:40/05:07)
 - b. **Other**

Mr. Guillory commended District staff for the assistance provided to the Suwannee River Water Management District which experienced a 500-year storm event. Mr. Mazur provided a brief slide presentation of the work staff did because of Tropical Storm Debby. (Track 17 – 05:07/15:10)

CHAIR'S REPORT

60. **Chair's Report** – None

There being no further business to come before the Board, **Mr. Gramling moved, seconded by Mr. Tharp, to adjourn the meeting.**

Chair Senft recessed the public hearing and adjourned the meeting at 3:01 p.m. (Track 17 – 15:10/15:44, Video – 91:01)