

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

AUGUST 25, 2015

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m. on August 25, 2015, at the District's Tampa Service Office. The following persons were present:

Board Members Present

Michael A. Babb, Chair (Via Phone)
Randall S. Maggard, Vice Chair
Jeff Adams, Secretary
David W. Dunbar, Treasurer
H. Paul Senft, Member
Carlos Beruff, Member
George Mann, Member (Via Phone)
Wendy Griffin, Member
Bryan Beswick, Member
Michael A. Moran, Member
Ed Armstrong, Member

Board Members Absent

Tommy Bronson, Member

Staff Members

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

Board's Administrative Support

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

A list of others present who signed the attendance roster is filed in the permanent records of the District. This meeting was available for viewing through Internet streaming. Approved minutes from previous meetings can be found on the District's Web site (www.WaterMatters.org).

PUBLIC HEARING (Audio – 00:00)

1. Call to Order

Vice Chair Randall Maggard called the meeting to order and opened the public hearing. Secretary Adams stated a quorum was present.

2. Invocation and Pledge of Allegiance

Board Member Griffin offered the invocation. Vice Chair Maggard led the Pledge of Allegiance to the Flag of the United States of America.

Vice Chair Maggard 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.

Vice Chair Maggard 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." Vice Chair Maggard 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.

Vice Chair Maggard stated, regarding Item 25, indicted below, public comments was taken during the administrative hearing pursuant to Chapter 120, F.S., and because the Governing Board is acting in a quasi-judicial capacity no additional public comment will be allowed during the meeting.

25. Consideration of Final Order – ERP No. 43041746.000 – Joseph McClash, Petitioner and Sierra Club, Inc. and Suncoast Waterkeeper, Inc., Intervenor v. Land Trust No. 97-12 and SWFWMD – DOAH Case No. 12-2161 / Manasota 88, Inc., Petitioner, and Sierra Club, Inc. and Suncoast Waterkeeper, Inc., Intervenor v. Land Trust No. 97-12 and SWFWMD – DOAH Case No. 14-5038 / Florida Institute for Saltwater Heritage, Inc., Petitioner, and Sierra Club, Inc. and Suncoast Waterkeeper, Inc., Intervenor v. Land Trust No. 97-12 and SWFWMD – DOAH Case No. 14-5135 – Manatee County

3. Additions/Deletions to Agenda

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

No Additions or Deletions were made to the agenda.

A *Request to Speak* card was submitted for the following item. This item was moved to discussion:

Resource Management Committee

13. Timber Oaks Stormwater Retention Facility (N736) Cooperative Funding Request

Board Member Beswick removed himself, due to voting conflict of interest, from the item listed below:

Regulation Committee

5. Individual Water Use Permits Referred to the Governing Board

d. WUP No. 20008985.008 - Gaylon Lawrence / Valencia Groves (DeSoto County)

Vice Chair Maggard said there is good cause to amend the published agenda as allowed by Section 120.525, Florida Statutes. A motion was made to approve the amendments to the published agenda, as amended, which was seconded. The motion carried unanimously. (Audio 00:05:48)

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

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

Ms. Karen West, Office of General Counsel, directed the Board to vote on the following item, individually:

Regulation Committee

5. Individual Water Use Permits Referred to the Governing Board

d. WUP No. 20008985.008 - Gaylon Lawrence / Valencia Groves (DeSoto County)

A motion was made and seconded. Motion carried unanimously, with the exception of abstention from Board Member Beswick. (Audio – 00:06:37)

CONSENT AGENDA

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

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

Regulation Committee

5. Individual Water Use Permits Referred to the Governing Board

- a. **WUP No. 20002842.011 - Citrus County Board of County Commissioners / Citrus County Utilities (Citrus County)**
Staff recommends the Board approve the proposed permit attached as an exhibit.
- b. **WUP No. 20005789.009 - Hernando County Board of County Commissioners / Hernando County Water System (Hernando County)**
Staff recommends the Board approve the proposed permit attached as an exhibit.
- c. **WUP No. 20006505.012 - Polk County Board of County Commissioners / Northwest Regional Utilities Service Area (Polk County)**
Staff recommends the Board approve the proposed permit attached as an exhibit.
- d. **WUP No. 20008985.008 - Gaylon Lawrence / Valencia Groves (DeSoto County)**
Staff recommends the Board approve the proposed permit attached as an exhibit.
- e. **WUP No. 20010420.009 - Peace River Manasota Regional Water Supply Authority / Peace River Water Treatment Plant (DeSoto County)**
Staff recommends the Board approve the proposed permit attached as an exhibit.
- f. **WUP No. 20020511.000 - Walton Acquisitions FL, LLC / Panasoffkee Preserve (Sumter County)**
Staff recommended the Board approve the proposed permit attached as an exhibit.

Operations, Lands and Resource Monitoring Committee

6. **Approve Agreement Between Tampa Bay Water and the Southwest Florida Water Management District for the Chito Branch Surplus Property, SWF Parcel Nos. 11-709-145S and 11-709-146S**
Staff recommended the Board approve and authorize the Governing Board Chair to execute the Agreement between Tampa Bay Water and the Southwest Florida Water Management District for the Chito Branch Surplus Property, SWF Parcel Nos. 11-709-145S and 11-709-146S.
7. **Approve Sale of Surplus Lands – Flying Eagle Preserve, SWF Parcel No. 19-334-148S**
Staff recommended the Board accept the offer, approve the contract for sale and purchase, and authorize execution of the instruments necessary to convey the property.
8. **Approve Sale of Surplus Lands – Panasoffkee/Outlet Tract, SWF Parcel No. 19-441-110S**
Staff recommended the Board accept the offer, approve the contract for sale and purchase and authorize execution of the instruments necessary to convey the property.
9. **Approve Amendment to Cooperative Agreement with Florida Forest Service**
Staff recommended the Board approve the extension and amendment to the current cooperative agreement with the Florida Department of Agriculture and Consumer Service's Florida Forest Service.
10. **Scope Change for Citrus County Fort Island Trail Wastewater Force Main Project (P100)**
Staff recommended the Board approve to reduce the project budget from \$2,000,000 to \$1,688,433, with the District to provide 50 percent (\$844,216) with no change in the resource benefit.

Resource Management Committee

11. Stormwater Improvements - Water Quality - Citrus County - Hunter Springs Water Quality Improvement Project - Scope Change (W453)

Staff recommended the Board approves to reduce the project budget from \$350,000 to \$300,000, to revise the measurable benefit to decrease the pond to an estimated 0.76 acres and to revise the resource benefit to remove of an estimated 45 lbs/year of Total Nitrogen and 558 lbs/yr of Total Suspended Solids.

12. Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Adopt Revised Minimum and Guidance Levels for Moon Lake in Pasco County (P256)

Staff recommended the Board:

- a. Accept the report entitled, "Proposed Minimum and Guidance Levels for Moon Lake in Pasco County, Florida", dated June 24, 2015.
- b. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- c. Initiate and approve rulemaking to amend Rule 40D-8.624, F.A.C., to replace the previously adopted minimum and guidance levels with the proposed minimum and guidance levels for Moon Lake in Pasco County as shown in the Exhibit.

13. Timber Oaks Stormwater Retention Facility (N736) Cooperative Funding Request

This item was moved to discussion.

Finance/Outreach & Planning Committee

14. Board Encumber for Scientific Modeling System

Staff recommended the Board encumber \$64,615 of funds budgeted in FY2015 to procure computer hardware and software to support the District's modeling activities.

15. Budget Transfer Report

Staff recommended the Board approve the Budget Transfer report covering all budget transfers for July 2015.

General Counsel's Report

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

a. Interagency Agreement Between the South Florida Water Management District and the Southwest Florida Water Management District -- Designation of Regulatory Responsibility for a Water Use Permit – 4 Seasons Golf Resort, LLC – Polk County

Staff recommended the Board approve the Interagency Agreement between the Southwest Florida Water Management District and the South Florida Water Management District for Designation of Regulatory Responsibility for a Water Use Permit for 4 Seasons Golf Resort in Polk County.

b. Approval – Settlement Agreement and Order – Unauthorized Construction Activities – Lake Charlotte Ranch, LLC – Highlands County

Staff recommended the Board approve the proposed Settlement Agreement and Order and authorize the initiation of litigation against Lake Charlotte Ranch, LLC and any other necessary parties if necessary to obtain compliance with the Settlement Agreement and Order

c. Concurrence with Executive Director's Authorization to Appear as an Amicus Curiae on Behalf of St. Johns River Water Management District in Putnam County Environmental Council v. St. Johns River Water Management District, FLWAC Case No. WMD-09-005

Staff recommended the Board concur with the Executive Director's authorization to appear as an amicus curiae, and to take any other appropriate actions staff deems necessary to protect District interests that may be impacted by the lawsuit *Putnam County Environmental Council v. St. Johns River Water Management District*, FLWAC Case No. WMD-09-005.

d. Board Designated Encumbrance - Legal Services, Expert Testimony/Analysis, and Administrative Law Judge

Staff recommended the Board approve the encumbrance of up to \$197,510 of FY2014-15 funds to be added to the prior year funds currently encumbered providing a total of up to \$390,910 for use in FY2015-16 for outside legal services, expert testimony/analysis and administrative law judge costs.

17. Rulemaking

a. Approval of Publication of Notice of Repeal Regarding Portions of Chapter 40D-4, F.A.C., and All of Chapters 40D-40 and 40D-400, F.A.C., to Repeal District ERP Rules that Were Superseded by the Statewide Environmental Resource Permitting Rules in Chapter 62-330, F.A.C.

Staff recommended the Board Authorize the publication of a notice of repeal regarding Chapter 40D-4, F.A.C., with the exception of Rule 40D-4.091, F.A.C., and Chapters 40D-40 and 400, F.A.C., in their entirety. Additionally, authorize the publication of a notice of repeal regarding Rule 40D-4.091, F.A.C., once Chapter 40D-1, F.A.C. has been amended to include the necessary publications, forms, and agreements used by the District that are currently contained in Rule 40D-4.091, F.A.C.

b. Initiation and Approval of Rulemaking to Amend Rule 40D-1.659, F.A.C., to Update and Reorganize the Forms, Instructions, and Agreements Incorporated by Reference

Staff recommended the Board initiate and approve rulemaking to amend Rule 40D-1.659, F.A.C., to update and reorganize the forms, instructions, and agreements incorporated by reference, and authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process.

Executive Director's Report

18. Approve Governing Board Meeting Minutes – July 28, 2015

Staff recommended the Board approve the July 28, 2015 meeting minutes.

19. Annual Calendar of Fiscal Year 2015-16 Meeting Dates

Staff recommended the Board approve the annual calendar of Fiscal Year 2015-16 meeting dates.

A motion was made and seconded to approve the Consent Agenda as amended. Motion carried unanimously. (Audio – 00:07:04)

Vice Chair Maggard relinquished the gavel to the Resource Management Committee Chair Senft who called the Committee meeting to order. (Audio – 00:07:13)

Resource Management Committee

Discussion

20. Consent Item(s) Moved for Discussion

13. Timber Oaks Stormwater Retention Facility (N736) Cooperative Funding Request

Committee Chair Senft stated a *Request to Speak* card was received.

Mr. Lawrence Duhlquest, resident of Spanish Gates, stated opposition for the project.

Committee Chair Senft asked how long the District has been working on this project.

Mr. Hammond responded staff has been working closely with Pasco County (County) over the last year. He provided some background information.

Board Member Beruff asked if a permit has been issued for flood improvements.

Mr. Hammond responded in the negative. Board Member Beruff asked that District Staff consider Mr. Duhlquest's comments when issuing the permit. Mr. Hammond responded in the affirmative.

Staff recommended the Board approve the Timber Oaks Stormwater Retention Facility (N736) Cooperative Funding as presented with an eligible total cost of \$8,300,000 and District share of \$4,150,000.

A motion was made and seconded to approve the staff's recommendation (which included Board Member Beruff's recommendation). Motion carried unanimously. (Audio – 00:12:19)

Submit & File Reports - None

21. Request to Lower Current Water Levels in Lake Pretty

Routine Reports

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

22. Minimum Flows and Levels Status Report

23. Significant Water Supply and Resource Development Projects

Committee Chair Senft adjourned the Committee meeting, and relinquished the gavel for the General Counsel Report. (Audio 00:13:41)

General Counsel's Report

Discussion

24. Consent Item(s) Moved for Discussion - None

25. Consideration of Final Order – ERP No. 43041746.000 – Joseph McClash, Petitioner and Sierra Club, Inc. and Suncoast Waterkeeper, Inc., Intervenors v. Land Trust No. 97-12 and SWFWMD – DOAH Case No. 12-2161 / Manasota 88, Inc., Petitioner, and Sierra Club, Inc. and Suncoast Waterkeeper, Inc., Intervenors v. Land Trust No. 97-12 and SWFWMD – DOAH Case No. 14-5038 / Florida Institute for Saltwater Heritage, Inc., Petitioner, and Sierra Club, Inc. and Suncoast Waterkeeper, Inc., Intervenors v. Land Trust No. 97-12 and SWFWMD – DOAH Case No. 14-5135 – Manatee County

Ms. Karen West, General Counsel, explained this item is regarding a proposed final order resulting from an administrative hearing concerning consolidated challenges to an Environmental Resource Permit (ERP) application number 43041746.000, and the District's proposed action to this permit. A recommended order has been entered by the Administrative Law Judge (ALJ). The Governing Board is being asked for consideration of the final order. The Governing Board is required to review the recommended order, the exceptions to the recommended order filed by the respondents and the responses to those exceptions filed by the petitioners and intervenors and then enter a final order. Ms. West stated no new factual information can be considered at this time.

Ms. West explained since public comments were taken during the administrative hearings, pursuant to Chapter 120, F.S., and the Governing Board is acting in a quasi-judicial capacity at this portion of the proceedings, no additional public comments will be allowed.

Ms. West explained that Ms. Amy Brennan, Managing Attorney, will act as the Governing Board's advisor during this proceeding.

Ms. West explained the Governing Board can adopt the ALJ's recommended order in total or reject or modify findings of fact and conclusions of law. She outlined the process that allows for rejection or modifications of facts or conclusions of law.

Ms. West explained that during the oral argument additional factual statements may be made that were not entered into the original record which may generate an objection. At that point the Governing Board would have to respond to each objection individually. The Governing Board has

the option to delegate the authority to the Chair to act on behalf of the Governing Board concerning these objections.

A motion was made and seconded to recommend the delegation of authority to the Chair during these proceedings. Motion carried unanimously. (Audio – 00:19:00)

Ms. Brennan explained, in detail, the Board's duties and responsibilities regarding entry of a Final Order in the proceeding.

Land Trust No. 97-12, the District, Petitioners, and Intervenors then presented oral arguments concerning their post-hearing filings with the District.

Ms. Brennan then presented a proposed Final Order and proposed ruling on exceptions filed by Land Trust No. 97-12 and the District.

Staff recommended consideration and entry of the proposed Final Order concerning ERP Application No. 43041746.000 to Land Trust number 97-12.

A motion was made to accept the recommended proposed Final Order. The motion was seconded. Motion carried with a majority of ten votes and one nay. (Audio – 01:39:56)

Submit & File Reports - None

Routine Reports

26. August 2015 - Litigation Report

27. August 2015 - Rulemaking Update

Chair Maggard adjourned this portion of the meeting, and relinquished the gavel to the Finance Committee Chair Dunbar, who called the Committee meeting to order. (Audio – 01:40:52)

Finance/Outreach & Planning Committee

Discussion

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

Submit & File Reports - None

Routine Reports

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

29. Treasurer's Report and Payment Register

30. Monthly Financial Statement

31. Monthly Cash Balances by Fiscal Year

32. Comprehensive Plan Amendment and Related Reviews Report

33. Development of Regional Impact Activity Report

34. Significant Activities Report

Committee Chair Dunbar adjourned the Committee meeting, and relinquished the gavel to the Regulation Committee Chair Moran, who called the Committee meeting to order. (Audio – 01:41:12)

Regulation Committee

Discussion

35. Consent Item(s) Moved for Discussion - None

36. Denials Referred to the Governing Board – August 2015

If any denials are requested to be referred to the Governing Board, these will be presented at the meeting.

Submit & File Reports – None

Routine Reports

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

37. **Overpumpage Report – August 2015**

38. **Individual Permits Issued by District Staff – August 2015**

Committee Chair Moran adjourned the Committee meeting, and relinquished the gavel to the Operations, Lands and Resource Monitoring Committee Chair Maggard, who called the Committee meeting to order. (Audio – 01:41:44)

Operations, Lands and Resource Monitoring Committee

Discussion

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

40. **Hydrologic Conditions Report**

Mr. Granville Kinsman, Hydrologic Data Manager, provided a presentation on the hydrologic conditions status report. He stated the month of July provided an above average amount of rainfall in most regions. Some conditions exceeded a five-hundred year event.

Groundwater conditions in the northern counties are in the normal range; central counties in the above normal range and southern counties are in the normal range.

Lake conditions are increasing, particularly in the central region. Twenty-two of the 121 lakes within Hillsborough and Pasco counties have reached new Period-of-Record highs. Polk Upland lakes increased, Lake Wales Ridge lakes are in the normal range. The Withlacoochee River is considered within normal range and the Hillsborough River is above normal. Public supplies are considered normal in most regions, but above normal in the Peace River region.

Climate forecast projections indicate rainfall may be below normal in September and returning to normal for October and November. Temperatures during the winter season are expected to be cooler. The conditions are considered favorable for a stronger than normal El Niño cycle.

Mr. Kinsman addressed rainfall accumulations that have occurred during July 1 through August 22 in the District region. He specifically addressed the rainfall accumulation that has occurred in the Pasco and Hillsborough counties. During that time period, that area has received approximately 40 inches of rain.

Mr. Jason Hopp, Operations and Land Management Bureau Chief, provided a presentation regarding the District's response to flooding that has occurred in the District region. This included: aid to counties; 24/7 structure operations; emergency field authorizations; documenting flooding complaints; high water data collection; water quality and rainfall data collection and media requests.

As part of aid to counties within the District, a sand bagger machine was provided. Staff assisted with this and over 7,000 bags of sand were supplied to residents.

In addition, District engineering staff provided support to the Pasco County Emergency Operation Center (EOC) for approximately 60 hours to assist with flood plain management issues.

The District's structure operations crew logged over 1,100 hours maintaining the structures operated within the District.

The District received approximately 50 complaint calls regarding lake operations. In upcoming months, staff will be meeting with various homeowner association to discuss lake operation guidelines.

Mr. Robert Beltran, Executive Director, thanked staff for the work that was done during this time. He commended staff on their leadership during this event. Board Members expressed accolades to staff and other agencies that assisted.

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

Submit & File Reports

41. Surplus Lands Biennial Assessment Quarterly Update

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

Routine Reports

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

42. Structure Operations

43. Significant Activities

Committee Chair Maggard adjourned the Committee meeting. (Audio – 02:00:50)

Committee/Liaison Reports

44. Joint Industrial/Public Supply Advisory

Board Members were provided a written summary of the August 11, 2015 meeting.

45. Other Committee/Liaison Reports

Board Member Griffin stated the District has been included in the draft priority plan that was submitted by the Environmental Protection Agency to the Gulf Coast Council. The District has been preliminarily selected to receive one of the project awards. This would be for the Palm River Habitat and Water Quality project through the National Estuary Program. The District would split this award with three other agencies. If this project receives the award, the District would receive \$271,430.

Executive Director's Report

46. Executive Director's Report - None

Chair's Report

Vice Chair Maggard reminded the Governing Board that the legislative session will begin in September.

Vice Chair Maggard announced this will be Board Member Beruff's last meeting. He has resigned from the Governing Board. The District presented Board Member Beruff with a plaque thanking him for his service.

47. Employee Milestones

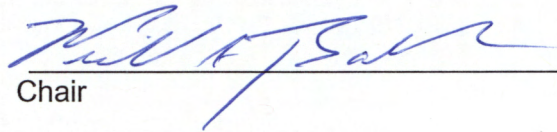
Vice Chair Maggard noted staff employees who have reached five-year increments in service to the District. He recognized staff members who have reached 25-year milestones, and thanked them for their service. This item was provided for the Board's information, and no action was required.

48. Other

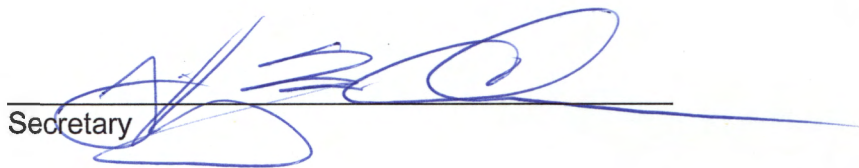
There is a tentative Budget Hearing scheduled for September 15 at 5:01 p.m., in the Tampa Office. The next Governing Board and final budget meeting is scheduled for September 29. The October 27 meeting is scheduled for Brooksville.

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

The meeting adjourned at 11:36.


Chair

Attest:


Secretary