MINUTES OF THE MEETING

GOVERNING BOARD
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA AUGUST 26, 2014

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:02 a.m. on August 26, 2014, at the District's Tampa Service Office. The following persons were present:

Board Members Present
Michael A. Babb, Chair
Randall S. Maggard, Vice Chair
Jeffrey M. Adams, Secretary
David W. Dunbar, Treasurer
H. Paul Senft, Member
Carlos Beruff, Member
Wendy Griffin, Member
George W. Mann, Member
Bryan K. Beswick, Member
Michael A. Moran, Member
Ed Armstrong, Member

Board Member(s) Absent
Thomas E. Bronson, Member

Staff Members
Robert R. Beltran, Executive Director
Brian Armstrong, Assistant Executive Director
David T. Rathke, Chief of Staff
Kurt P. Fritsch, Inspector General
Laura J. Donaldson, General Counsel
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
Linda De Jonge, Administrative Coordinator

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 – 00:00)

1. Call to Order
Chair Babb called the meeting to order and opened the public hearing. Mr. Adams noted a quorum was present.

2. Pledge of Allegiance and Invocation
Ms. Griffin offered the invocation. Chair Babb led the Pledge of Allegiance to the Flag of the United States of America.

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

Mr. Beltran noted the following changes requested to the agenda.

The following item was added for consideration:

**General Counsel's Report**

**Discussion Item**


The following items were deleted from consideration:

**Resource Management Committee**

**Consent Agenda**

10. City of North Port’s Potable Water ASR System Change in Scope (K120)

**Operations & Land Management Committee**

**Discussion Item**

26. Request by Hillsborough County for Governing Board Support for a High Speed passenger ferry in Tampa

Chair Babb asked if the Board had any items which needed to be removed.

Ms. Griffin requested to move the following item to discussion so that she may recuse herself from voting:

**Regulation Committee**

**Consent Agenda**

5. Individual Water Use Permits Referred to the Governing Board – WUP No. 20012232.003 – Citrusuco North America/Citrusuco North America (Polk County)

Mr. Armstrong requested to move the following item to discussion so that he may recuse himself from voting:

**Operations & Land Management Committee**

**Consent Agenda**

7. Approve Sale of Surplus Lands – Lake Tarpon Outfall Canal, SWF Parcel No. 16-001-153S
Chair Babb said there is good cause to amend the published agenda as allowed by Section 120.525, Florida Statutes.

Mr. Maggard moved to approve the amendments to the published Consent Agenda. The motion was seconded and carried. (Video – 05:27)

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

**CONSENT AGENDA** (Video – 05:51)

Chair Babb 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. No one responded to the Chair’s request to speak to the Board.

**Regulation Committee**

5. **Individual Water Use Permits Referred to the Governing Board - WUP No. 20012232.003 – Citrusuco North America/Citrusuco North America (Polk County)**  
This item was moved for discussion purposes.

6. **Approve Release of Conservation Easement and Quit Claim Deed – The Meadows – Polk County**  
Staff recommended the Board approve Release of Conservation Easement and Quit Claim Deed to release Conservation Easement No. 2008124774.

**Operations & Land Management Committee**

7. **Approve Sale of Surplus Lands – Lake Tarpon Outfall Canal, SWF Parcel No. 16-001-153S**  
This item was moved for discussion purposes.

**Resource Management Committee**

8. **Authorize Submission of Preliminary Flood Insurance Rate Maps for the Gant Lake Watershed in Sumter County to the Federal Emergency Management Agency**  
Staff recommended the Board authorize staff to submit the preliminary FIRM for the Gant Lake watershed in Sumter County to FEMA.

9. **Approval to Include Outside Funding from the City of Sebring Toward Highland County’s Share for Lake Jackson Watershed Hydrology Investigation (N554)**  
Staff recommended the Board approve the outside funding from the city of Sebring towards Highlands County’s share of the eligible project cost for the Lake Jackson Watershed Hydrology Investigation in order to develop recovery strategy options to restore the low water levels in Lake Jackson and Little Lake Jackson in an effort to meet the MFL.

10. **City of North Port’s Potable Water ASR System Change in Scope (K120)**  
This item was deleted from consideration.

11. **East Lake Nutrient Source Evaluation (N664)**  
Staff recommended the Board approve to reduce the project budget by $100,000 and the District’s share by $50,000 for the East Lake Nutrient Source Evaluation project.

12. **FARMS - Sweetwater Preserve, LLC – Phase 2 (H711), Hardee County**  
Staff recommended the Board 1) approve the Sweetwater Preserve, LLC – Phase 2 project for a not-to-exceed project reimbursement of $231,885.67 with $3,770.07 provided from State Appropriations, $36,508.60 provided by the Peace River Basin Fund, and $191,607 provided by the Governing Board; 2) authorize the transfer of $3,770.07 from State Appropriations allocated to fund 010 H017 FARMS Funds, $36,508.60 from 010 H017 Peace River Basin FARMS Funds, and $191,607 from fund 010 H017 Governing Board FARMS Funds to the H711 Sweetwater Preserve, LLC – Phase 2, project fund; and 3) authorize Assistant Executive Director sign the agreement.
13. **FARMS - Barnwell Farms (H712), Hillsborough County**  
Staff recommended the Board 1) approve the Barnwell Farms project for a not-to-exceed project reimbursement of $127,500 provided by the Governing Board; 2) authorize the transfer of $127,500 from fund O10 H017 Governing Board FARMS Funds to the H712 Barnwell Farms project fund; and 3) authorize Assistant Executive Director to sign the agreement.

**Finance/Outreach & Planning Committee**

14. **Board Encumbrance to Support Oracle License Review**  
Staff recommended the Board transfer and encumber $200,000 previously approved for support and enhancement of the District's enterprise content management system and authorize the procurement of Oracle software licenses and software maintenance as needed to address potential finding in an Oracle software audit.

15. **Budget Transfer Report**  
Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for July 2014.

**General Counsel's Report**

16. **Administrative, Enforcement and Litigation Activities that Require Governing Board Approval**  
   a. **Approval of Revisions to District Policy 710-2, Performance Evaluations of the Executive Director and Inspector General**  
   Staff recommended the Board approve the proposed revisions to District Policy 710-2, Performance Evaluations of the Executive Director and Inspector General.

17. **Rulemaking**  
   a. **Approval of Final Rule Language and Authorization to Complete Rulemaking to Adopt a Rule Allowing the District to Suspend a Contractor from Doing Business with the District When a Contractor Materially Breaches a Contract with the District**  
   Staff recommended the board approve final rule language and authorize the completion of rulemaking to adopt new Rule 40D-7, Florida Administrative Code, to establish a procedure for suspending a contractor from working with the District when the contractor has materially breached its contract with the District, 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 for Fiscal Year 2014-15 Meeting Dates**  
Staff recommended the Board approve the FY2014-15 annual Board meeting calendar.

Staff recommended the Board approve the minutes as presented.

**Executive Director's Report**

19. **Approve Governing Board Meeting Minutes – June 24, 2014**  
Staff recommended the Board approve the minutes as presented.

Chair Babb asked if there was any public comment on the consent agenda. Hearing none, he called for a motion to approve the Consent Agenda as amended. **A motion was made to approve the Consent Agenda, as amended, which was seconded. The motion passed.** (Video – 06:06)

Chair Babb then relinquished the gavel to Mr. Moran, who called the Regulation Committee to order.

**REGULATION COMMITTEE** (Video – 06:13)  
**Discussion Items**

20. **Consent Item(s) Moved for Discussion**
5. Individual Water Use Permits Referred to the Governing Board - WUP No. 20012232.003 – Citrusuco North America/Citrusuco North America (Polk County)
This is a modification of an existing water use permit for agricultural and industrial use. The annual average and drought annual average quantities increased by 500,000 gallons per day (gpd) for industrial use. The quantities authorized by this modification are an annual average quantity of 1,750,900 gpd and a drought annual average quantity of 1,870,900 gpd. The authorized peak month and crop protection quantities of 2,865,700 gpd and 8,640,000 gpd, respectively, remain unchanged. The increase in quantities are based on historical pumping and documentation supplied by the applicant indicating an increase in production from the citrus processing facility. Effluent water from the processing facility is reused for the irrigation of 320 acres of citrus. The proposed water used is located within the area of the Central Florida Water Initiative (CFWI) as well as the Southern Water Use Caution Area.

Chair Moran asked if there would be a presentation on the item. Ms. Más stated she could have Darrin Herbst make a presentation. Mr. Moran mentioned he had a speaker card from Mr. Wayne Griffin; however, he did not speak.

Ms. Griffin recused herself from voting based on the potential appearance of conflict.

Chair Moran called for a motion to approve the proposed permit. Mr. Maggard moved to approve the permit, which was seconded. The motion passed unanimously. (Video – 07:24)

21. Denials Referred to the Governing Board - August 2014 - None
Submit & File Reports – None
Routine Reports
22. Overpumpage Report – August 2014
23. Individual Permits Issued by District Staff – August 2014

Chair Moran then relinquished the gavel to Mr. Maggard, who called the Operations & Land Management Committee to order.

OPERATIONS & LAND MANAGEMENT COMMITTEE (Video – 07:43)

Discussion Items
24. Consent Item(s) Moved for Discussion
   7. Approve Sale of Surplus Lands – Lake Tarpon Outfall Canal, SWF Parcel No. 16-001-153S

The purpose of this item is to request the Governing Board accept the offer for this property which has been declared surplus, enter into a contract for the sale and purchase, and execute the instruments necessary to convey SWF Parcel No. 16-001-153S.

The two acre Lake Tarpon Outfall Canal parcel was acquired in an exchange with Pinellas County in 2005 in order to facilitate the construction of a County reclaimed water storage facility. The property is located on the western side of the canal, downstream of structure S-551 and in the vicinity of McMullen Booth Road north of Curlew Road. The property is not needed for the long-term management and operation of the Lake Tarpon Outfall Canal.

The following is a summary of the appraisal and offer process:

<table>
<thead>
<tr>
<th>Minimum Bid/Offer</th>
<th>High Bid/Offer</th>
<th>Minimum Price</th>
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<tbody>
<tr>
<td>8/1/2013 Appraisal</td>
<td>5/13/2014 Appraisal</td>
<td></td>
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<tr>
<td>$22,000.00</td>
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<td>$11,000.00</td>
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The offer of $40,000 is 82 percent above the minimum asking price and the May 13, 2014 appraised value.

Ken Frink advised the Committee that this particular piece is along the Lake Tarpon Outfall Canal between the canal and McMullen Booth. It's a two acre piece that was used for spoil site. The District appraised at $22,000; the current high offer is $40,000. The District checked with the County to see if we could change the future land use, which is currently recreation, conservation to see if we could put it to more intense use to increase the value of the property and received a negative response to that.

Staff recommended the Board 1) Accept the Offer; 2) Approve the Contract for Sale and Purchase; and 3) Authorize execution of the instruments necessary to convey the property.

Mr. Armstrong recused himself from voting on the item as he was contacted by the contract buyer prior to his appointment to the Governing Board.

A motion was made to approve staff recommendation, which was seconded. Motion passed. (Video – 09:18)

25. **Hydrologic Conditions Status Report**
Gravna Kinsman, Manager, Hydrologic Data Section, provided information on the general state of the District’s hydrologic conditions, by comparing rainfall, surface water, and groundwater levels for the current month to comparable data from the historical record.

Rainfall totals for July indicate rainfall was within the normal range in all three regions of the District. The normal range is defined as rainfall totals that fall on or between the 25th to 75th percentiles derived from the historical data for each month.

July streamflow data indicate regional streamflow increased in all three regions of the District, compared to the previous month.

July groundwater data indicate levels in the Floridan/Intermediate aquifer increased in all three regions of the District, compared to last month.

July lake level data indicate average lake levels increased in all regions of the District, compared to the previous month.

July completes the second month of the four-month annual wet season (June through September) and rainfall totals for the month were within the normal range in all regions of the District.

Updated weather forecasts will be available in mid-August. 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.

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

26. **Request by Hillsborough County for Governing Board Support for a High Speed Passenger Ferry in Tampa**
This item was deleted from consideration.

Submit & File Reports - None
Routine Reports
27. **Structure Operations**
28. **Significant Activities**

Chair Maggard then relinquished the gavel to Mr. Senft, who called the Resource Management Committee to order.

**RESOURCE MANAGEMENT COMMITTEE** (Video – 16:11)

**Discussion Items**

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

30. **Cooperative Funding Program – Cost Increases**

Mark A. Hammond, Division Director, Resource Management, presented options for guidelines for the District's Cooperative Funding Initiative (CFI) program to address requests for project costs increases. In June 2014, the Governing Board requested staff come back in August to provide this information.

Mr. Hammond discussed guidelines that staff has developed over the last several months proposed to be used to evaluate cooperative funding projects that come into cycle this year that the Board would look at next year. This is in response to the Board discussions regarding projects that were previously funded and then come in as a cost increase. The Board asked in previous Board meetings for staff to come back with an overview of options for the Board to consider for guidelines on how staff would evaluate projects going forward next year and then apply these guidelines to the projects next year, look to see if there are any adjustments needed, discuss that with the Board and then formalize it either as an Executive Director procedure or as a formal Board policy. No action is recommended at this time.

Mr. Hammond went over the guidelines that the District would be using to evaluate the projects next year that come in with a cost increase. The guidelines have been broken down into three key areas including: 1) expectations, 2) managing costs for projects with higher risk, and 3) updating the Board.

Mr. Hammond went over a power point presentation which covered several different scenarios as to how requests for cost increases would be handled based on the type of funding request and the ranking of the project.

Mr. Maggard inquired as to the percentage of scope change to cost increase. Mr. Hammond advised that over the last two years, the District had about 134 projects in 2014 and 111 projects last year. There were 4 cost increases on the first year and 7 cost increases this past year. It's a small percentage of the projects that have a cost increase. There is a project coming up next on the agenda that is a change in scope. Mr. Senft pointed out that in addition to being a scope change, it's double the amount of water for only one-third the amount of cost so there are other measurements that go into this. Mr. Hammond agreed that if the amount of water was doubling, it would be looked at as a scope change on the project.

Mr. Beruff asked how we can make the guidelines rigid enough so that cooperators don’t come back and ask for more after the project has been approved. Mr. Hammond acknowledged that’s a good point and that’s why staff wants to get the guidelines in place and evaluate them this year as we’re evaluating those projects and then come back next year and we may find that we need to adjust them.

Mr. Senft noted this year will be a trial run but, the message is intended to be that they're not going to be automatic anymore, we're going to have less money to deal with in cooperative funding.
Mr. Beruff suggested that it really has to be clear that it has to be the exception to the rule as opposed to business as usual.

Mr. Babb confirmed with Mr. Hammond that in contracts now, if there is any increase without a scope change, the Board can simply just deny. Mr. Hammond confirmed that in all of the contracts, the risk is on the cooperator contractually. What staff is recommending in the guidelines, after some trial and error and when it becomes policy, is if there is no scope change, and we’re just looking at an increase in cost in the project, when you’re looking at the project, however it’s ranked, it will be re-categorized as it’s presented back to the Board. Mr. Hammond stated if it you have a project that was originally approved as a medium ranked and there’s an increase, we’re not going to recommended funding for the increase; the increase would get ranked as low.

Mr. Hammond then went over a scenario where the Board has approved a high ranked project and it’s a good project and the scope hasn’t changed in terms of adding to the project but it’s going to cost 10 percent more. If the resource benefits and the cost effectiveness are maintained, then staff would rank that increase as high. Some other considerations that would be looked at would be to make sure the schedule is maintained and the cooperator’s performance on other projects has been acceptable. Mr. Hammond went on to explain to the Board several other potential scenarios.

In presenting a scenario where a project is ranked as high and the cost increase is greater than 20 percent, Mr. Hammond stated that staff would not be recommending funding for those projects. Mr. Senft asked if there would be circumstances where the increases would be over 20 percent and the Board would deny the increase, but some may be required to be done in order to complete the original project. Over the transition period Mr. Hammond would anticipate there are some projects that are already under process and working and they’ll have to face that decision.

Mr. Babb asked looking back over the last two or three years how many projects has the District approved that would have fallen into this particular scenario that would have been denied or staff would have recommended denial. Mr. Hammond said he thinks there were a couple of those that would have been right at about this amount or greater. Mr. Babb asked Mr. Hammond if he knew how many millions of dollars that would have been. Mr. Hammond responded that in 2014, the District had about $5.6M in increase. This year that was just approved, the requests were about $20M, but there was one that was substantial and it ended up with about $10M or $13M in increases.

Mr. Mann asked Mr. Hammond if he thinks once these guidelines are published, that people will be estimating on the high side. Mr. Hammond said staff will look at that and believes it will be addressed through the metrics. If the projects are padded too much, the cost effectiveness will start being affected and staff can look at things in terms of the past and see where we think that it’s higher than what we believe is reasonable. Mr. Hammond mentioned that the next item that is addressed is on some of those bigger ticket items, those that are greater than $5M, that we only go forward with some of the due diligence work first, which gives us the information to have a higher degree of confidence. So with the metrics and then with addressing those bigger ticket item projects, he feels the District will be able to manage that issue.

Mr. Maggard opined that some of these problems can be solved up front. He thinks those issues can be worked out. Mr. Maggard stated that he’s all for a good deal but he doesn’t want a good deal that we’re going to have to come back and pay for later.

Mr. Adams asked if on the five previous scenarios, if the Board can consider an exception to any of the guidelines. Mr. Hammond confirmed. All recommendations are brought to
the Board and staff will point out areas where staff thought the guidelines would work but there might be areas that are unique and need to be taken into account.

Mr. Hammond stated that the way staff would approach projects coming next year is, if it’s greater than a 20 percent increase, staff’s recommendation would be to not fund. That can be discussed with the Board and will be presented to the Board. If it’s less than a 10 percent increase for the same project, it would get a high ranking but, if it’s between 10 and 20 percent, it will get a medium ranking. Mr. Hammond mentioned that this will send a message to our cooperators that the District wants to tighten up the estimates. If it’s greater than 20 percent, staff would not be recommending funding. There would be some exceptions for small dollar increases. If a project is simply a change in the scope, staff would consider that a new project.

Mr. Beruff commented on the third party review and stated that he wants to insist when there is a third party review, that the cooperator delegate to the District that the third party review person works for the District, not them and the District, but they’re responsible for 50 percent of the bill so that the third party is truly independent when they’re reviewing the budget. Chair Sent said that staff would make a note of that and was sure it would come back as part of the policy when it is ready to be adopted.

Mr. Maggard asked how much usually is the 30 percent of the design for a $5 million project. Mr. Hammond responded that it can vary depending on the size of the project. A $5 million project versus a $30 million project, you could spend a half million dollars on 30 percent or greater. For example, a 30 percent design on a $100 - $150 million dollar project is going to be over $1 million. Mr. Maggard notes that we can figure in on a large project we’re going to have at least $500 thousand to $1 million involved to make sure it works out or at least get our numbers right. We will have that much committed to it. Mr. Hammond confirmed and clarified that contractually all we would agree to is up to that 30 percent.

Mr. Adams mentioned that on the required review by the third party, we hope to be able to tighten up the cost estimate. He asked if that would also cover an upfront due diligence to confirm the effectiveness of the project for other components in the metrics. Mr. Hammond confirmed that typically is involved in the third party review.

Mr. Beruff expressed his concern regarding the third party review if we come in with an estimate of $10 million and then the third party review comes in at $15 million and that’s our share, he doesn’t want to set that up as a principal and he doesn’t want to abdicate staff’s responsibility to look at it just because there is a third party. The staff still has to have their opinion. Before we hire the third party review, we need to have a tight number. We don’t want to see is where we just say we’re going to hire a third party review anyway and whatever they say is what we fund. The third party review is an audit to make sure we did our work correctly to begin with and we have something else to go by. He doesn’t want to automatically say they came in with a $10 million request and after we had the third party review, it’s $15 million and we’re already committed.

Chair Senft mentioned that it would still have to meet the metrics but, Mr. Beruff just wanted to be sure there is nothing automatic.

Mr. Hammond said the intent would be that, as we’re going through that process, if we find that there is a cost increase, we’re not going to penalize them. But it may be someone comes in and says it should be a lot more and we look at it and say that’s not what we’re going to recommend; it would not be automatic.

Mr. Hammond mentioned that the comments that have been received are very helpful.
Staff will come back in February and April of next year and walk through any examples that come in and make any changes and formalize it through either as an Executive Director procedure or a formal Board policy.

This item was presented for the Board’s information only; no action was required.

31. **Dona Bay Restoration (N424 & N484) - Sarasota County** (Video – 47:58)
Michael Peck, Project Manager 3, Project Management Office, presented a request for approval to change the scope of work and increase the cost for the Dona Bay Conveyance System Project (N424), cancel the Dona Bay Surface Water Storage Facility Project (N484), and transfer District funds ($350,000) associated with the Dona Bay Surface Water Storage Facility Project (N484) into the Dona Bay Conveyance System Project (N424).

The District previously approved funding for the Dona Bay Conveyance System Project (N424) and the Dona Bay Surface Water Storage Facility Project (N484). The projects depended on one another to achieve the projected water quality resource benefits.

During the design phase, the County, working with stakeholders including the District, substantially changed the project design to maximize the potential resource benefits and remove the water storage facility portion of the project. The County’s revised design is now proposing to construct and restore approximately 363 acres of wetlands and water treatment to treat and convey the water from Cow Pen Slough rather than the ditch and pipeline system that would only provide conveyance. Flows routed through the wetland system would be returned to Dona Bay via Salt Creek. This series of BMPs will reduce TN loads to Dona Bay by an estimated 18,251 lbs/yr.

The County is requesting the scope of work for the Conveyance System Project be changed to include the approximately 363 acres of wetlands and water treatment to convey and treat the water from Cow Pen Slough instead of the ditch and pipeline conveyance system. The County is also requesting the Surface Water Storage Facility Project be withdrawn, as the resource benefits will be achieved in the wetland treatment system, and to transfer the funds budgeted from the Storage Facility project to the Conveyance System project. The County is currently at 90 percent design and the project is scheduled to be advertised for construction in January, with construction to commence in June of 2015.

Staff recommended that the Board 1) Approve the changes to the scope of work for the Dona Bay Conveyance System Project (N424); 2) Approve the cancelation of the $4 million Dona Bay Surface Water Storage Facility Project (N484) and transfer of $350,000 currently budgeted for this project to the Dona Bay Conveyance Project (N424); 3) Approve the total project cost of $12.5 million for the Dona Bay Conveyance System Project with the District share not to exceed $6.25 million, contingent upon the Board’s future year appropriations for the project; and authorize the executive director or designee sign the agreement.

Mr. Beruff moved to approve the request as presented; the motion was seconded. After additional discussion, Chair Senft called the question on the motion, which carried unanimously. (Video – 57:02)

**Submit & File Reports**
32. **Proposed Minimum Flows Updates Prior to Submission for Scientific Peer Review for the Pithlachascotee River (B805 & B806)**
Mark Hammond stated that this is just a peer review for an MFL. Once the peer review
comes back, it will be brought back to the Board. This item was submitted for the Governing Board’s information only; no action was required.

**Routine Reports**
33. **Minimum Flows and Level Status Report**  
This item was submitted for the Governing Board’s information only; no action was required.
34. **Significant Water Resource and Development Projects**  
This item was submitted for the Governing Board’s information only; no action was required.

Chair Senft then relinquished the gavel to Mr. Dunbar, who called the Finance/Outreach & Planning Committee to order.

**FINANCE/OUTREACH & PLANNING COMMITTEE (Video – 57:39)**

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

**Submit & File Reports**
36. **Office of Inspector General – Procurement Consulting Project**  
Mr. Dunbar reported that he and Mr. Fritsch met and talked about the matter and it is progressing well in terms of improving the procurement process. This item was submitted for the Governing Board’s information only; no action was required.

**Routine Reports**
37. **Treasurer’s Report and Payment Register**
38. **Monthly Financial Statement**
39. **Monthly Cash Balances by Fiscal Year**
40. **Comprehensive Plan Amendment and Related Reviews Report**
41. **Review of Developments of Regional Impact**
42. **Significant Activities**

Chair Dunbar then relinquished the gavel to Chair Babb.

**GENERAL COUNSEL’S REPORT (Video – 58:30)**

**Discussion Items**
43. Consent Item(s) Moved for Discussion - None
44. **Southwest Florida Water Management District v. Steven Schryver – Approval of Final Order of Dismissal with Prejudice**  
Martí Moore reported to the Board that Steven Schryver owns approximately 13.5 acres of real property located on Spike Road near Brooksville in Hernando County. Since 2012, District staff has received several complaints concerning earthmoving and possible wetland filling or dredging impacts from the construction of a motocross track by Mr. Schryver on his property. Following site visits and observation of property conditions from neighboring parcels, staff determined that the activities constituted the construction or alteration of a surface water management system for which an Environmental Resource Permit (ERP) is required. Staff issued Notices of Unauthorized Construction to Mr. Schryver, who thereafter submitted a request for determination of exemption from permitting requirements. In February 2013, District staff issued its determination that the activities are not exempt and constitute the construction or alteration of a surface water management system for which an ERP is required. Following issuance of the agency determination, Mr. Schryver did not submit an application for an ERP.

Ms. Moore discussed the timeline of events through today.

Following Ms. Moore’s presentation, Mr. Noel Flasterstein, attorney for Mr. Schryver addressed the Board. Mr. Flasterstein indicated that his client’s main concerns are the fines.
He disputed the fact that Mr. Schryver ignored notifications of violations. He stated that he is in the process of applying for an environmental resource permit. He said if the fines were removed, they would be able to move forward.

Following Mr. Flasterstein, Mr. Schryver, the property owner, addressed the Board. Mr. Schryver disputed that he was not cooperating. Prior to this issue, he stated that District staff had been out to his property three of four times prior to when the current issue began and each time the issues were either unsubstantiated or corrected. He stated that he has cooperated at every other occasion that the District has been out to his property. He is in the process of doing what he was required to do and that is applying for an ERP. He stated that he did not get notice on a lot of things. He stated he was unaware of “this” issue until he was served at a county code enforcement hearing. As soon as he found out, he responded. Mr. Schryver stated that he had an email from someone at the District stating that they were “impressed” with how he was maintaining the erosion on the property, which is the issue. He is currently working with an engineering group to get the ERP filed. It requires drawings and the process is extremely costly. He stated that he has been working 70 – 80 hours a week to save enough money to pay the engineers to be able to afford to do the drawings. He stated he is close to completion to turn in the application. Once that application is approved, he stated that it would costs tens of thousands of dollars to do what the District requires just to fix the property after the ERP is obtained. He stated that would require him to take a second mortgage on his house and pull from any other resources he has just to fix his property, which he was told is the main goal of SWFWMD. Mr. Schryver stated that his concern with the fines is if he still has to fix the property after getting the ERP approved, there is no point because he will be done from a financial standpoint. He has a small business; if it goes under, he can’t employ people anymore. He stated that he wants to do the right thing but with cost of applying for the permit, approximately $88,000, he’ll have nothing left. He’s working to get it done and turned in and correct the issue on the property.

There was a lengthy question and answer session between the Board and Mr. Schryver with regard to the situation. Mr. Beruff requested to view the aerials shown in Ms. Moore’s presentation. Ms. Moore confirmed for Mr. Beruff that there were no wetland impacts on the property and that the situation is about construction of a surface water management system.

Mr. Beruff made a motion for the Board’s consideration that the District waive the penalties so long as Mr. Schryver applies for an ERP to come into compliance within 60 days at the latest. If not, then this action comes back to the Board in November.

Mr. Senft pointed out the average time in-house for an ERP is 13 – 15 days. And there has been a lot of time passed and nothing has been accomplished. He feels that anyone should know they need some kind of engineering to be done.

Ms. Donaldson advised the Board that by taking staff recommendation, there are no penalties assessed within the action that will occur today. It will require Mr. Schryver to get a permit. Subsequent to that, the District can then go to circuit court if he doesn’t get a permit to enforce that and have the court require him to get a permit and as well as seek penalties. If the issue is penalties, Ms. Donaldson wants to separate that from the action in front of the Board, which is entering of the final order ending the administrative process. There are still other court proceedings to be had but it ends the 120 proceeding.

Mr. Beruff made a motion that the Board accept staff recommendation as proposed and that if Mr. Schryver doesn’t follow that to the letter, it gives the District the right to go to circuit court and seek enforcement and penalties. Mr. Moran seconded.
Mr. Armstrong agreed with the action should be to dismiss the proceeding with prejudice. He thinks there should be milestones attached so that if Mr. Schryver is not pursuing what he needs to do to come into compliance, then there should be penalties imposed by the District.

Ms. Donaldson suggested that if the Board is willing to accept the staff recommendation, she will put the item back on the agenda a month from now; we can see where we’re at and then we can get direction from the Board as to whether they’re comfortable to pursue penalties and costs in circuit court.

Mr. Maggard asked Ms. Donaldson if there is a timeframe within which Mr. Schryver has to obtain the ERP. Without a timeframe, he is not in favor of removing the fine.

Ms. Moore advised the Board that the administrative complaint and order requires that an application be submitted in 30 days. Mr. Maggard feels that it’s fine the way it is. Mr. Schryver has been given an extra 30 days. Ms. Moore pointed out that this matter has been ongoing since 2009. A consent order was issued in 2013 and there was no offer of negotiating received. Ms. Moore advised the Board that staff remains open to do so.

Mr. Adams expressed agreement that the Board approve dismissal. He also felt that the District should provide Mr. Schryver with a timeframe allowing him to fix the issue and stating that it will take 30 days and that the District will go forward with litigation to get costs and penalties if it’s not done within a certain amount of time.

Ms. Donaldson suggested if the Board moves forward with the staff recommendation to issue the final order, the ACO requires an ERP to be filed within 30 days. She suggested the Board amend the motion in part whereas if the ERP is not filed within 30 days, the District can immediately move forward with circuit court proceedings to require the ERP to be filed and seeking penalties and costs. If the application is filed within the 30 days but then it sits, or we continuously get requests for extensions of time, direct staff to come back to the Board to then seek approval to go to circuit court and move forward with seeking penalties and fees and enforcement of getting the permit done.

Ms. Donaldson recommended the Board approve the final order of dismissing second amended petition with prejudice and direct staff that if an ERP is not timely filed as required by the ACO, staff move forward with court proceedings and then if there is a delay of more than a total of 30 additional days come back to the board and move forward with getting permission.

Mr. Maggard moved to approve the amended motion and Mr. Senft seconded the amended motion.

Mr. Flasterstein again addressed the Board. Chair Babb stated that if Mr. Schryver is in compliance, he needs to get a permit and he feels that giving 30 days to file the ERP is sufficient.

Mr. Beruff asked when the ERP application is submitted, staff reviews it and it gets granted, how long Mr. Schryver would have to make the repairs and comply with the ERP. Ms. Moore advised that ERPs are generally issued for five years but when there are compliance matters that require corrective construction, there is generally a time limit which is typically 60 days. Mr. Beruff expressed concern that if it’s a financial problem, which it sounds like it is for Mr. Schryver, then granting an ERP with a 60 day requirement to implement it is a bit strong. He
has to abide by whatever he does, he needs to apply for the ERP. If it gets granted, he needs to have enough time to do it and it has to be continuous work. If he doesn’t know how much it’s going to cost to do the corrections to the property but he doesn’t want to get into a situation where this comes up again three of four months from now. Five years doesn’t make any sense but 60 days might be a tight timeframe. Mr. Beruff asked Mr. Schryver once he has an ERP, how long does he think it might take to do the work. He replied that he expects he can completely do it in maybe four months. Mr. Beruff asked staff to keep in mind that once the ERP is issued, they give Mr. Schryver enough time to get it done and just monitor it until it is done.

Chair Babb called for a vote on the amended motion. Motion passed. (Video – 1:39:49)

52. **Final Order of Dismissal with Prejudice – SWFWMD v. Country Club Utilities, Inc. –**

WUP No. 2007704.005/.006 – CT No. 336752 – Highlands County

Ms. Donaldson informed the Board that on October 12, 2006, the District issued Water Use Permit (WUP) No. 2007704.005 (the .005 Permit) to Country Club Utilities, Inc. (the Utility), authorizing water withdrawals of 183,000 gallons per day (gpd) on an annual average basis and 234,000 gpd on a peak month basis for public supply use. On June 5, 2012, the District issued WUP No. 2007704.006 (the .006 Permit) authorizing a replacement production well. The authorized water withdrawals remained unchanged.

On December 3, 2010, District staff issued a Notice of Non-Compliance (Notice) to the Utility regarding overpumpage of its permitted quantities. The Notice advised the Utility to bring its withdrawals into compliance within 30 days. The Utility failed to bring its withdrawals into compliance.

From the date of the Notice, District staff has worked diligently with the Utility in an effort to resolve this matter and assist the Utility in bringing its withdrawals into compliance. Because such efforts were not successful, the matter was transferred to the Office of General Counsel for legal enforcement in August 2011. Staff in the District’s Office of General Counsel continued to work with the Utility in order to resolve the matter but was also unsuccessful; as a result, in September 2012 staff sought and obtained authorization from the Governing Board to initiate litigation against the Utility. Staff continued their efforts to resolve this matter without resorting to litigation but was again unsuccessful, as the Utility continued to exceed its authorized withdrawal quantities. For the 43-month period from December 2010 through May 2014, the Utility exceeded its total annual average withdrawals, on average, by 40 percent.

Staff recommended that the Board approve the Final Order of Dismissal with Prejudice, dismissing the request for administrative hearing filed by County Club Utilities, Inc. with prejudice.

Ms. Donaldson advised the Board that the Utility submitted a letter, a copy of which was provided to each of the Board members.

**Mr. Adams moved to approve staff recommendation, Mr. Maggard seconded. Chair Babb asked if there was any discussion; hearing none, a vote was called on the matter; motion passed.** (Video – 1:42:07)

Ms. Donaldson provided the Board with an update on the Parsons litigation. The Board approved filing of the complaint in November of 2013. Mediation was held on August 7, which was unsuccessful. Next month Ms. Donaldson will request the Board to move over funds for outside counsel to next year’s budget because the District is moving forward with this case.
The District did try to settle the matter but was unsuccessful. Ms. Donaldson advised that sometime in November or December, she will be seeking a closed session with the Board to more fully advise the Board about the case.

Ms. Donaldson also advised the Board that we are down to 55 cases on the litigation report.

Chair Babb congratulated Ms. Donaldson for getting the number of cases down and thanked her for the information.

Submit & File Reports – None
Routine Reports
45. Litigation Report
46. Rulemaking Update

COMMITTEE/LIAISON REPORTS (Video – 1:44:20)
47. Industrial & Public Supply Advisory Committee Report
Mr. Senft advised the Board that Eric DeHaven presented information on the FARMS program update and there was information shared about the cooperative funding changes for FY2016. A CFWI update was presented and reviewed and the Committee was told about the solutions team phase. Committee members expressed concern about the CFWI contract changes. The committee members were concerned that the contract changes verbiage seemed to indicate that we would be expecting some guarantee, for example, if we had a reuse water project to get water to a golf course, if the golf course went bankrupt that the cooperators would be expected to take over the golf course and guarantee us that it would continue to function, and Mr. Senft stated that he didn’t believe that was the intention of the wording so, that has been referred back to Legal so they can provide some information for the next meeting.

48. Other Committee/Liaison Reports
Ms. Griffin reported on the Tampa Bay Estuary Program’s quarterly policy board meeting. Ed Turanchik gave an overview of Hillsborough County’s high speed ferry project and the Tampa Bay Regional Planning Council gave a summary of the recently completed study regarding economic impacts of Tampa Bay. Just briefly, some of their conclusions were that one out of two jobs in the Tampa Bay Area has to do with Tampa Bay and that one out of five jobs depends on a healthy bay. The entire report is available on their website or Ms. Griffin will provide a report. The Be Floridian Campaign that Tampa Bay Estuary Program has been promoting has asked 30 different local artists to decorate their mascots, which is a flamingo, which will be going on a traveling show around the Tampa Bay Area. Ms. Griffin added that Alba Más has created one of those flamingos and it will be on display.

Mr. Maggard advised the Board that the Flying Eagle Evaluation Committee was scheduled to meet in the afternoon.

EXECUTIVE DIRECTOR’S REPORT (Video – 1:46:03)
49. Executive Director’s Report
Mr. Beltran reported that the District received a thank letter from our Agricultural Commissioner for support of the Operation Outdoor Freedom program. The program was started by the Commissioner in 2011 is run through the Florida Forest Service office. The program supports wounded veterans in the state by offering them recreational opportunities. We hosted two alligator hunts on our property and alligator egg collection on the Lake Hancock property. During that egg collection event in July, about 10 veterans collected eggs from alligators’ nests. An alligator farm permitted by Florida Fish and Wildlife was there to help us coordinate and collect the eggs. The Lake
Hancock property was found to have one of the highest number of alligator nests in the state. Veterans were allowed to remove 50 percent of the eggs from the nests and up to 35 eggs as allowed by the permit. The veterans collected nearly 1,900 eggs during the event, which was a great success. The veterans and their families are invited back to the alligator farm to watch those eggs hatch and any money collected from the sale of those eggs goes to support future programs run by that organization. Mr. Beltran thanked staff for all their hard work in putting the event together and supporting this effort.

Mr. Beltran reported that the District was recently honored with three awards of distinction in an annual Florida Public Relations Association Golden Image Awards contest. The District was recognized for a springs Instagram contest, its springs website, and its CFWI webinar. The springs Instagram contest helped promote public awareness and engagement involving our springs. The three month contest met or exceeded all its objectives. We received 187 entries during the contest. Our message was promoted by 24 different media sites and social media sites and newsletters and received support from eight key businesses in the area. Mr. Beltran thanked staff for all the work they’ve done.

The CFWI webinar provided the public an opportunity to learn more about the CFWI and the critical water resource issues in central Florida. About 250 people participated in the webinar, which was taped and went on for several months in Lake, Orange, Polk and Seminole counties.

The three awards were announced to staff in front of about 250 public relations professionals from across the state. Mr. Beltran expressed his pride in the public relations staff and the message that we continue to send every day from our staff of the good work we do and the importance of continuing to do so. Mr. Beltran congratulated staff for their hard work.

Mr. Dunbar mentioned that he was impressed with annual Environmental Permitting School in Marco Island, which four Board members attended. This was his first participation and he was impressed with the interaction with law firms, engineering firms and other District’s around the state, all recognizing that SWFWMD is really the leader in terms of implementing those things that the Districts were established for. In addition to the awards that Mr. Beltran mentioned, SWFWMD is recognized on a state-wide level for the good things that they do. Kudos to our staff.

**CHAIR’S REPORT** (Video – 1:52:59)
50. Chair’s Report
   a. **Employee Service Milestones**
      This item provided a list of employees who have reached five-year increments in service to the District. Chair Babb noted staff who have reached 20-year, 25-year and 35-year milestones, and thanked them for their service. This item was provided for the Board’s information, and no action was required.
   b. **Other**
      Mr. Babb mentioned the unfortunate accident involving one of the District’s contractor’s employees who passed away, Mr. John Winchester, and asked staff to keep his family in their prayers.

Mr. Babb mentioned upcoming Board meetings.
Mr. Maggard moved to adjourn the meeting, which was seconded.

The meeting was adjourned at 10:57 a.m. (Video – 1:54:28)

Attest:

[Signature]

Chair

The Southwest Florida Water Management District (District) does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the District's functions, including access to and participation in the District's programs and activities. Anyone requiring reasonable accommodation as provided for in the Americans with Disabilities Act should contact the District's Human Resources Bureau Chief, 2379 Broad Street, Brooksville, Florida 34604-6999; telephone (352) 796-7211, ext. 4702, or 1-800-423-1476 (FL only), ext. 4702; TDD (FL only) 1-800-231-6103; or email to ADACoordinator@swfwmd.state.fl.us.