

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

AUGUST 28, 2012

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:05 a.m. on August 28, 2012, at the District's headquarters in Brooksville. The following persons were present:

Board Members Present

Hugh Gramling, Vice Chair
Douglas B. Tharp, Secretary
Albert G. Joerger, Treasurer (via telephone)
Jeffrey M. Adams, Member
Michael A. Babb, Member
Carlos M. Beruff, Member
Bryan K. Beswick, Member
Jennifer E. Closshey, Member
Randall S. Maggard, Member
Todd Pressman, Member (via telephone)

Board Member(s) Absent

H. Paul Senft, Chair
Judith C. Whitehead, 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 00:00)

1. Call to Order

Vice Chair Gramling called the meeting to order at 9:05 a.m. and opened the public hearing. Mr. Tharp noted a quorum was present.

2. Pledge of Allegiance and Invocation

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

Public Hearing

Vice Chair Gramling 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 Gramling 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 Gramling 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. (00:00/04:28)

3. **Additions/Deletions to Agenda**

Mr. Guillory noted there is one deletion as follows:

CONSENT AGENDA

General Counsel's Report

The following item was deleted from consideration:

16. Amendments to Conservation Easements - Ennis Property – Hillsborough and Polk Counties

Mr. Beruff moved, seconded by Mr. Tharp, to approve the amended agenda. Motion carried unanimously. (04:28/05:05)

4. **District Recognition – Tampa Area Safety Council Fleet and Occupational Safety Contest**

Ms. Lucy Petruccelli, the District's Risk Manager, noted that as a member of the Tampa Area Safety Council, the District participates in the Council's annual safety contests for Fleet Safety and Occupational Safety. Participation allows the District to compare its fleet and work related injury status to other public and private entities in the Tampa Area. These contests are held annually and have an average of 15 participating entities. For calendar year 2011, the Bartow and Sarasota Service Offices each received a first place award in Fleet Safety for driving 357,213 and 328,957 miles, respectively, without an accident. The Brooksville Service Office received a second place award in Fleet Safety with 1,763,165 miles driven with only one accident. The Sarasota Service Office also received a first place award in Occupational Safety with 107,691 hours worked without a recordable injury. Safety Representatives from Bartow and Brooksville were recognized at a Safety Council lunch in May and received a plaque for each contest category. (05:05/07:00)

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

5. **Employee Recognition**

The following staff members who achieved milestones of 20 years or greater for the period of June 1, 2012 to September 30, 2012, were recognized before the Board. (07:00/15:35)

MILESTONE	EMPLOYEE NAME	TITLE	BUREAU	LOCATION
35 Years	Richard Gant	Field Technician Supervisor	Natural Systems & Restoration	Brooksville
25 Years	Ron Basso	Senior Prof Geologist/Engineer	Water Resources	Brooksville
	Steve Dicks	Bureau Chief, Information Tech	Information Technology	Brooksville
	Christine Jackson	Senior Prof Geologist/Engineer	Water Resources	Brooksville

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

Vice Chair Gramling noted that one *Request to Speak* card had been submitted.

Mr. Chris Wynn, Florida Fish and Wildlife Commission Regional Director, invited Board members to attend the Commission meetings next week in Tampa. (15:35/17:50)

CONSENT AGENDA (Video – 17:50)

Item 16 was deleted from consideration.

Regulation Committee

7. **Individual Water Use Permits Referred to the Governing Board** – None

Resource Management Committee

8. **Initiate and Approve Rulemaking to Amend 40D-8.624, Florida Administrative Code (F.A.C.), to Adopt Minimum and Guidance Levels for Lake Hooker in Hillsborough County**

Staff recommended the Board initiate and approve rulemaking to amend Rule 40D-8.624, F.A.C., to delete the previously adopted guidance level and add new guidance and minimum levels for Lake Hooker in Hillsborough County.

9. **Budget Transfer and Authorization to Negotiate an Agreement with Tampa Bay Water for Scientific Peer Review of the Integrated Northern Tampa Bay Model (P883)**

Staff recommended the Board authorize the transfer of \$100,000 from the Lake Hancock Lake Level Modification project (H008) to the Northern Tampa Bay Recovery program (P883); and authorize staff to negotiate the cooperative agreement with TBW for the peer review of the INTB model and authorize the Resource Management Division Director to execute the agreement.

Finance & Administration Committee

10. **Budget Transfer Report**

Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for July 2012.

11. **Board Designated Encumbrances**

a. **Operations and Land Management Bureau**

- (1) Flying Eagle Nature Center (SB06)
- (2) Construction of a Tie-Back Berm at Structure S-353 (S012)
- (3) Construction of the Morris Bridge Sink Diversion Project in Support of the Lower Hillsborough River Recovery Strategy (H402)
- (4) Peace Creek Canal Vegetation Management, Obstruction Removal and Other Maintenance (B815)

Staff recommended the Board approve encumbrances, not to exceed amounts indicated, for the above projects to roll into the FY2013 budget.

b. **Resource Management Division**

- (1) Lake Hancock Lake Level Modification Project (H008)
- (2) Flatford Swamp Hydrologic/Adaptive Management Restoration (H089)
- (3) Palm River Restoration Project (W367)
- (4) Three Sisters Springs Wetland Treatment Project (W471)
- (5) Colt Creek State Park Wetland Hydrologic Restoration (D050)
- (6) Hydrologic Restoration of Brooker Creek Buffer Preserve (D056)

Staff recommended the Board approve encumbering prior year and current year funds, without a contract, to roll into FY2013 for the projects listed above.

c. **Outside Legal Services, Expert Testimony/Analysis, and Administrative Law Judge**

Staff recommended the Board approve encumbering \$250,000 for legal services, \$25,000 for expert testimony/analysis, and \$19,000 for administrative law judge costs for use during FY2012-2013.

12. **Information Technology Bureau Fiscal Year 2012-2013 Sinking Fund Transfers – Planned Upgrade and Expansion of Network Servers**

Staff recommended the Board transfer FY2012-2013 funds from the Computer Renewal and Replacement Sinking Fund account to ITB operational accounts for the planned FY2012-2013 purchase of network upgrades and expansion equipment from the State of Florida Contract at a cost not to exceed \$150,000 contingent on final Board approval of the FY2012-2013 Annual Service Budget.

13. **Fleet Services – Approval to Surplus Tow Vehicle**

Staff recommended the Board approve the request to surplus Fleet Services tow vehicle.

14. **Release of Perpetual Easement and Access Easement, SWF Parcel No. 11-020-023 for ROMP No. TR-AB-1**

Staff recommended the Board declare SWF Parcel 11-020-023 as being no longer needed for the purposes acquired and execute the Quit Claim Deed to Tampa Electric Company.

15. **Acceptance of Land Donation – Peace Creek Canal Project, SWF Parcel No. 20-696-128P**

Staff recommended the Board accept the land donation, consisting of an easement over 5.98 acres along the Peace Creek Canal.

General Counsel's Report

16. **Amendments to Conservation Easements - Ennis Property – Hillsborough and Polk Counties** – This item was deleted from consideration.

17. **Administrative, Enforcement and Litigation Activities that Require Governing Board Approval – Consent Order - Surface Water Activity - Peter A. Geraci – Manatee County**

Staff recommended the Board approve the Consent Order, and authorize the initiation of litigation as necessary in order to obtain compliance with the Consent Order.

18. **Rulemaking**

a. **Approve Rule Language to Amend Rule 40D-2.091, F.A.C., and Section 3.1 of the Water Use Permitting Basis of Review to Address Certain Reuse Feasibility Requirements for Water Use Permit Applicants and Reuse Providers as Mandated by Statute**

Staff recommended the Board approve rule language amending Section 3.1 of the Water Use Permitting Basis of Review and Rule 40D-2.091, F.A.C., to address certain reuse feasibility requirements for water use permit applicants and reuse providers as mandated by statute and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

b. **Initiate and Approve Rulemaking to Amend Rule 40D-3.341, F.A.C., to Allow a Property Owner or Party in Legal Control of a Property to Request the District to Administratively Cancel a Well Construction Permit**

Staff recommended the Board initiate and approve rulemaking to Amend Rule 40D-3.341, F.A.C., to allow a property owner or party in legal control of a property to request the District to administratively cancel a well construction permit and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

c. **Initiate and Approve Rulemaking to Amend Rule 40D-3.041, F.A.C., to Require Permits for Specific Injection Wells Pursuant to Legislative Amendments to Section 373.326(3), F.S.**

Staff recommended the Board initiate and approve rulemaking to Amend Rule 40D-3.041, F.A.C., to require permits for Class V, Group 1 injection wells and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

d. **Initiate and Approve Rulemaking to Amend Chapter 40D-3, F.A.C., to Incorporate Changes Necessitated by Amendments to Chapters 62-528 and 62-532, F.A.C.**

Staff recommended the Board initiate and approve rulemaking to Amend Rules 40D-3.037, .507, and .517, F.A.C., to incorporate changes necessitated by amendments to Chapters 62-528 and 62-532, F.A.C., and authorize staff to make any necessary clarifying or technical changes that may result from the rulemaking process.

Executive Director's Report

19. **Approve Governing Board Minutes – July 31, 2012 Monthly Meeting**

Staff recommended the Board approve the minutes as presented.

Mr. Beruff moved, seconded by Mr. Tharp, to approve the Consent Agenda as amended. Motion carried unanimously. (17:50/18:25)

Vice Chair Gramling relinquished the gavel to Regulation Committee Chair Beswick who called the meeting to order.

REGULATION COMMITTEE (Video – 18:25)

Discussion Items

20. **Consent Item(s) Moved for Discussion** – None
21. **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.

22. **Tampa Bay Water Desalination Facility Status**
Ms. Más noted that Tampa Bay Water (TBW) provided the information in the Board's meeting materials. Mr. Warren Hogg, TBW, responded to questions. Ms. Closshey requested TBW provide information about organization and staffing changes.

Routine Reports

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

23. **Southern Water Use Caution Area Quantities**
24. **Overpumpage Report**
25. **E-Permitting Metrics: Online vs. Paper Applications**
26. **Individual Permits Issued by District Staff**
27. **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. (18:25/25:44)

OPERATIONS & LAND MANAGEMENT COMMITTEE (Video – 25:50)

Discussion Items

28. **Consent Item(s) Moved for Discussion** – None
29. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, noted that July completes the second month of the four-month annual wet season (June through September) and provisional rainfall totals for the month were within the normal range in the northern and central regions, while they were below normal in the southern region. Rainfall during July was typical summertime showers/thunderstorm activity that was generally scattered, regionally variable, and that helped sustain the hydrologic improvements that occurred in late June from the abundant rainfall from Tropical Storm Debby. Regional streamflow conditions saw continued improvements in July, remaining at normal to above-normal flows that enhanced their use as public supply sources. Groundwater and regional lake levels showed improvements as well. Regional lake levels within the Tampa Bay region remained in the annual normal range, while the Northern, Polk Uplands and Lake Wales Ridge regions remained at below-normal levels. (25:55/33:05)

In response to drought questions, Ms. Closshey requested Mr. Kinsman provide information on the historical status of drought conditions.

Mr. Roy Mazur, Bureau Chief, Operations and Land Management, provided an overview of how District staff handled activities related to Tropical Storm Isaac.

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

Submit & File Reports

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

30. **Surplus Lands Assessment Update**
31. **Flying Eagle Nature Center Update** (Video – 38:10)
Ms. Cheryl Hill, Project Manager, said the Request for Proposal was released August 17 and responses are due by October 11, 2012. She noted that staff will report on the proposals at the Board's November meeting.

Routine Reports

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

32. **Structure Operations**
33. **Significant Activities**

Operations and Land Management Committee Chair Babb adjourned the Committee meeting and relinquished the gavel to Outreach and Planning Committee Chair Adams who called the Committee meeting to order. (33:05/40:53)

OUTREACH & PLANNING COMMITTEE (Video – 40:52)

Discussion Items – None

Submit & File Reports – None

Routine Reports

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

34. **Comprehensive Plan Amendment and Related Reviews**
35. **Development of Regional Impact Activity Report**
36. **Significant Activities**
In response to Vice Chair Gramling's request about Florida Friendly™ negotiations, Mr. Michael Molligan, Bureau Chief, Communications, said staff is looking for new ways and options to enhance technology for promoting Florida Friendly landscaping. He noted that the University of Florida is providing assistance and also developing a tool kit for coordinators. He said staff will provide a report on the costs and benefits at the Board's October meeting. Vice Chair Gramling said Soil and Water Conservation Districts have a staff person for mobile irrigation labs which is a service that could be included in the program without additional funds, and when reviewing metrics, just as is done with FARMS, it should be dollars spent versus water saved.

Outreach and Planning Committee Chair Adams adjourned the Committee meeting and relinquished the gavel to Resource Management Committee Chair Gramling who called the Committee meeting to order. (40:53/44:40)

RESOURCE MANAGEMENT COMMITTEE (Video – 44:38)

Discussion Items

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

Submit & File Reports – None

Routine Reports

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

38. **Minimum Flows and Levels**
39. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
40. **Significant Water Supply and Resource Development Projects**

Resource Management Committee Chair Gramling adjourned the Committee meeting and relinquished the gavel to Finance and Administration Committee Vice Chair Tharp who called the Committee meeting to order. (44:40/45:21)

FINANCE & ADMINISTRATION COMMITTEE (Video – 45:22)

Discussion Items

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

42. **Audit Subcommittee Recommendation for Independent Audit Services**

Mr. Fritsch noted that, at the Board's June meeting, the Board Chairman appointed a subcommittee to evaluate and rank independent auditor proposals based solely on qualifications to perform the District's annual financial audit. The Board Chairman appointed Board Member Beruff to conduct contract negotiations on the Board's behalf. The Governing Board must select the method to be used to negotiate a contract with a firm recommended by the evaluation subcommittee.

Mr. Fritsch said that 10 proposals were received and reviewed by the Board's Audit Subcommittee. He said that, once the Subcommittee had ranked the proposals, then the costs were considered. Ms. Donaldson clarified the negotiation process and noted that the most important factor to be considered by the Governing Board in selecting a firm under either of the negotiation methods authorized by the statute must be the firm's qualifications.

Following discussion, **Mr. Tharp moved, seconded by Ms. Closshey, to authorize Mr. Beruff to commence negotiations concurrently with all of the firms recommended by the Audit Subcommittee; and negotiate a contract with one of the firms using an appropriate alternative method, on the Board's behalf, for which compensation is not the sole or predominant factor used to select the firm. Motion carried unanimously.**

Mr. Beruff will report the outcome of the negotiations to the Board on September 11, 2012 for final selection of a firm. (00:45:21/01:09:10)

43. **Fiscal Year (FY) 2012-13 Budget Update** (Video – 60:03)

Mr. Fritsch reviewed proposed budget changes since the July 31, 2012 meeting, and results of the August 16 meeting in Tallahassee. Mr. Guillory said the comments he received were all favorable and the budget was well received.

Mr. Beruff moved, seconded by Ms. Closshey, to approve the budget changes that have been made since July 31, 2012 Governing Board meeting for a reduction of \$211,090, and a revised budget totaling \$159,450,185; and assign \$91,150 in available funds to the District's Short-Term Projects Fund Balance Reserve established by Board Policy 130-9. Motion carried unanimously. (01:09:10/01:13:15)

44. **Information Technology Review and Analysis Update** (Video – 73:24)

Dr. Steve Dicks, Bureau Chief, Information Technology, provided an update on the Information Technology (IT) Review and Analysis conducted by KPMG. He said the review has been completed, and provided a summary of project findings and staff's implementation plan.

Staff recommends the Board approve the transfer and encumbrance of \$1,400,000 from existing FY2012 budgeted and prior year encumbrances to support the implementation of the recommendations from the Information Technology Review and Analysis study.

Following discussion, **Mr. Gramling moved, seconded by Mr. Beruff, to approve the staff recommendation. Motion carried unanimously. (01:13:15/01:32:50)**

Submit & File Reports – None

Routine Reports

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

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

Finance and Administration Committee Vice Chair Tharp adjourned the Committee meeting and relinquished the gavel to Chair Senft. (01:32:50/01:33:45)

(Mr. Beruff left the meeting.)

GENERAL COUNSEL'S REPORT (Video – 93:36)

Discussion Items

48. **Consent Item(s) Moved for Discussion** – None
49. **Initiate Rulemaking to Amend Chapters 40D-1, 4, 40 and 400, F.A.C., and Approve Applicant's Handbook Volume II, Incorporated by Reference in 40D-4.091, F.A.C., as Part of the Statewide Environmental Resource Permitting Program**

Ms. Michelle Hopkins, Bureau Chief, Environment Resource Permit, said that, to coordinate with the Florida Department of Environmental Protection's (FDEP's) rulemaking schedule, District staff seeks authorization to initiate rulemaking for amendments to Chapters 40D-1, 4, 40 and 400, F.A.C.

Ms. Hopkins briefly reviewed proposed changes. As FDEP proceeds with its rulemaking, staff anticipates proposing amendments to the District's related rules, such as the applicable procedural rules and fee rule set forth in Chapter 40D-1, F.A.C. Staff also anticipates that certain rule chapters, such as Chapter 40D-40 and 400, F.A.C., which concern standard and noticed general permits, may be appropriate for repeal. The proposed new statewide Environmental Resource Permitting (ERP) rules will include all of

the noticed general permits covered in Chapter 40D-400, and will eliminate the category of standard general permits currently addressed in Chapter 40D-40, F.A.C.

Ms. Marti Moore, Assistant General Counsel, reviewed the legal provisions regarding this process. As required by statute, the statewide ERP rules adopted by DEP will apply to all water management districts (WMDs) without further rulemaking; rely primarily on existing FDEP and WMD rules; WMDs have substantive jurisdiction to implement and interpret; local entities may have stricter regulations; WMDs may continue to adopt rules for water quality, water quantity, design and performance criteria; and existing permits and exemptions are grandfathered. The rules will include an ERP Applicant's Handbook (AH) is divided into two volumes: AH I applies statewide and will be the same for FDEP and all WMDs (administrative, environmental, sediment and erosion control); and AH II follows FDEP specified outline and contains district-specific water quantity and quality criteria, and special requirements applicable to each WMD.

Staff recommends the Board authorize the initiation of rulemaking for amendments to Chapters 40D-1, 4, 40 and 400, F.A.C., as part of the statewide ERP program; and, specifically, authorize initiation of rulemaking to amend 40D-4.091, F.A.C., to incorporate Applicant's Handbook Volume II by reference.

Ms. Closshey moved, seconded by Mr. Maggard, to approve the staff recommendation. Motion carried unanimously. (01:33:45/01:51:00)

Submit & File Reports – None

Routine Reports

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

- 50. **Litigation Report**
- 51. **Rulemaking Update** (01:51:00/01:52:12)

COMMITTEE/LIAISON REPORTS (Video – 112:18)

The following reports were provided in the Board meeting materials.

- 52. **Joint Industrial and Public Supply Advisory Committees Meeting**
- 53. **Tampa Bay Regional Planning Council Meeting**
- 54. **Other Liaison Reports** – None (01:52:12/01:52:40)

EXECUTIVE DIRECTOR'S REPORT (Video – 112:37)

- 55. **Executive Director's Report**
Mr. Guillory said that additional District staff restructuring is anticipated and he envisions that certain types of technical positions will be needed in the next year. He requested the Board approve a separation package similar to last year's and direct him to meet individually with Board members to discuss potential changes.

Ms. Closshey moved, seconded by Mr. Maggard, to approve a separation package for District restructuring and for Mr. Guillory to meet individually with Board members to discuss reorganization. Motion carried unanimously. (01:52:40/01:57:58)

CHAIR'S REPORT (Video – 117:47)

56. **Chair's Report**

Vice Chair Gramling reminded Board members of the first budget hearing on September 11 at the Tampa Service Office. Also, he noted the location of upcoming Board meetings through the end of the calendar year.

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

Vice Chair Gramling recessed the public hearing and adjourned the meeting at 11:05 a.m. (01:57:58/02:00:37, Video – 120:37)