

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

SEPTEMBER 28, 2010

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:05 a.m. on September 28, 2010, at the District's headquarters in Brooksville. The following persons were present:

Board Members Present

Ronald E. Oakley, Chair
Hugh Gramling, Vice Chair
H. Paul Senft, Secretary
Douglas B. Tharp, Treasurer
Jeffrey M. Adams, Member
Carlos Beruff, Member
Bryan K. Beswick, Member
Neil Combee, Member
Albert G. Joerger, Member
Todd Pressman, Member
Judith C. Whitehead, Member

Staff Members

David L. Moore, Executive Director
William S. Bilenky, General Counsel
Lou Kavouras, Deputy Executive Director
Richard S. Owen, Deputy Executive Director
Eugene A. Schiller, Deputy Executive Director
Bruce C. Wirth, Deputy Executive Director

Board's Administrative Support

LuAnne Stout, Administrative Coordinator
Tahla Paige, Senior Administrative Assistant

Board Member(s) Absent but available via phone

Jennifer E. Closshey, Member

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

Public Hearing

1. Call to Order

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

2. Pledge of Allegiance and Invocation

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

Public Hearing

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

Chair Oakley stated that anyone wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda should fill out and submit a speaker's card. To assure that all participants have an opportunity to speak, a member of the public may submit a speaker's card to comment on agenda items only during today's meeting. If the speaker wishes to address the Board on an issue not on today's agenda, a speaker's card may be submitted for comment during "Public Input." Chair Oakley stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute

limit may be granted by the Chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson.

3. **Additions/Deletions to Agenda**

Mr. Moore said there was one addition to the agenda.

Regulation Committee

The following item is added for consideration as a Discussion Item:

- Partial Release of Conservation Easement and Quit Claim

Chair Oakley noted for the record that the addition was accepted for today's agenda.
(Track 1 – 00:00/04:30)

4. **Employee Recognition**

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

MILESTONE	EMPLOYEE NAME	TITLE	DEPARTMENT	OFFICE LOCATION
Retirement	Lloyd Johnson	Senior Well Driller	Res Data & Restor	Tampa
	Charlene Jordan	Buyer 2	Finance	Brooksville
30 Years	Ken Weber	Water Use Permitting Prog Dir	Strategic Prog Ofc	Brooksville
	Bruce Wirth	Deputy Executive Director	Executive	Brooksville
20 Years	Barry Billets	Senior Environmental Scientist	Brooksville Reg	Brooksville
	Paul Murphy	Prof Geologist/Engineer	Bartow Regulation	Bartow

Mr. Eric DeHaven, Director, Resource Data Restoration, presented Mr. Lloyd Johnson with his retirement plaque for 35 years of service. Mr. Johnson addressed the Board and expressed his appreciation to the staff he has worked with through the years.
(Track 1 – 04:30/18:20)

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

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

Chair Oakley noted that no requests to speak were submitted. (Track 1 – 18:20/18:30)

Consent Agenda

Finance & Administration Committee

6. **Budget Transfer Report**

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

7. **Office of Inspector General – Fiscal Year (FY) 2010 Encumbrance**

Staff recommended to encumber FY2010 funds in an amount not to exceed \$30,000 remaining in the Consultant Services account for use in FY2011.

Regulation Committee

8. **Initiate and Approve Rulemaking to Amend Chapter 40D-22, Florida Administrative Code (F.A.C.), Year-Round Water Conservation Measures, to Address Minor Glitches, Omissions and Consistency of Definitions with Chapter 40D-21, F.A.C., Water Shortage Plans**

Staff recommended to initiate and approve rulemaking for the purpose of amending Chapter 40D-22, F.A.C., Year Round Water Conservation Measures, as set forth in the rule exhibit to this item included in the Board meeting materials.

9. **Initiate and Approve Rulemaking to Amend Chapter 40D-1, F.A.C., Procedural, to Incorporate a Form "Petition for Variance or Waiver from Chapters 40D-21 and 40D-22, F.A.C.," and Update Rule Delegating Variance Approvals to Staff**

Staff recommended to initiate and approve rulemaking for the purpose of amending Chapter 40D-1, F.A.C., Procedural, as set forth in the exhibits containing the Petition For Variance form and the amendments to rules 40D-1.659 and 40D-1.1002, F.A.C., in the Board meeting materials.

10. **Initiate and Approve Rulemaking to Amend Environmental Resource Permitting Rule 40D-4.091, F.A.C., and the Basis of Review Regarding Mitigation for Impacts to Wetlands and Other Surface Waters**

Staff recommended to authorize the initiation of rulemaking and approve amendments to Rule 40D-4.091, F.A.C., and Chapter 3 and Appendix 4 of the ERP Basis of Review to clarify provisions related to mitigation.

Resource Management Committee

11. **Decline Right of First Refusal to Acquire Remainder Fee Interest in Conservation Easements – Green Swamp Wilderness Preserve, SWF Parcel Nos. 10-200-1100C and 10-400-158C**

Staff recommended to authorize the District's Land Resources Director to decline the right of first refusal on SWF Parcel Nos. 10-200-1100C and 10-400-158C.

General Counsel's Report

12. **Stipulation for Order of Taking – SWFWMD v. William H. Stanton, Jr. and Brandy Lee Stanton, et al, Case No. 2010-CA-004509, 10th Judicial Circuit - Lake Hancock Project, SWF Parcel Nos. 20-503-209P and 20-503-210P – Polk County**

Staff recommended to authorize the agreement to a minimum amount for full compensation of \$120,000 in exchange for a Stipulated Order of Taking.

13. **Initiation of Litigation – ERP No. 44019109.001 - Cypress Preserve Development Corporation – Pasco County**

Staff recommended to authorize the initiation of litigation against Cypress Preserve Development Corporation and any other appropriate parties to obtain compliance, to recover an administrative fine/civil penalty for the violations, and to recover District enforcement costs, court costs and attorney's fees.

14. **Interagency Agreement between the SFWMD and the SWFWMD – Designation of Regulatory Responsibility - S.Y. Hartt Ranch Environmental Restoration Project – Highlands County**

Staff recommended to approve the Interagency Agreement between the South Florida Water Management District and the Southwest Florida Water Management District for Designation of Regulatory Responsibility for S.Y. Hartt Ranch Environmental Restoration Project in Highlands County.

Executive Director's Report

15. **Approve Governing Board August 24, 2010 Meeting Minutes**

Staff recommended to approve the minutes.

Following consideration, **Mr. Gramling moved, seconded by Mr. Tharp, to approve the Consent Agenda as presented. Motion carried unanimously.** (Track 1 – 18:30/19:05)

General Counsel's Report

Discussion Items

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

17. **Tampa Bay Water's Seawater Desalination Project**

Mr. Bilenky said, at the previous meeting, discussion occurred regarding the second amendment to the funding agreement for the desalination plant and one of the operational protocols contained in an agreement exhibit. He said, as part of that exhibit, there is a requirement for an operational level for the plant for Water Year 2010 and it is expected to be 15 million gallons per day (mgd). Mr. Bilenky noted that the level did not occur and the

Board requested an explanation from staff. He said Commissioner Mark Sharpe, Tampa Bay Water (TBW) Board of Directors Chair, is here to explain the reason and make a recommendation to the Governing Board as how to move forward regarding the operational level. Mr. Bilenky said he expects the Governing Board to discuss the long-term operational protocol for the plant following Commissioner Sharpe's comments.

Chair Oakley noted that Ms. Closshey is available by telephone.

Commissioner Sharpe said he is honored to be here and it was a pleasure to have an opportunity to be a part of the presentation in recognizing employees who love their job, work hard and believe in what they are doing. He said TBW staff also fit those categories, and he also appreciates the fact that TBW can work with the District to reduce groundwater pumpage.

Commissioner Sharpe said he will explain TBW's rationale with regard to the water usage with the desalination plant. The desalination facility is part of TBW's and the Districts' efforts to reduce groundwater pumpage and find an alternative to all the environmental damage. Over the past 12 years, the two agencies have been effective working together reducing groundwater pumpage of over 100 mgd. TBW has identified a number of alternative sources and desalination is an important one. Over last two years, TBW has used the plant an average of 17 mgd and in 2010 the average was 12 mgd. TBW has met the performance testing requirements and appreciates the District working with TBW to achieve that goal. During that time for four months, the plant produced 25 mgd.

Commissioner Sharpe noted that, as you are aware and I hear this every day from citizens, the country is in the middle of an economic crisis. One of the objectives of TBW is to do everything it can to be efficient with resources and be as judicious as possible with all the options for reducing groundwater pumpage. TBW is also trying to find a way to be as conservative with its money while recognizing that desalination is a very expensive source of water. With the abundant rain, TBW has a reservoir that is now standing at 15 billion gallons. TBW made the decision and, as a board member myself and Commissioner Higginbotham, Hillsborough County, urged TBW staff to find every measure they could to reduce costs because the Board knew there was a 18-percent reduction in demand amongst its six-member jurisdiction. This reduction was creating a budget crisis so TBW had to find a way to save money. Recognizing that TBW was pumping well below the 90 mgd permitted—now at 79 mgd, TBW could achieve its objective and goal of reducing groundwater pumpage. TBW could use its alternative sources and at the same time find a way to protect the rate payer who would see an increase for whatever reason if TBW decided to use more desalination water than was necessary.

Commissioner Sharpe said in the future TBW's Board will ensure that it communicates with the District Governing Board to work in partnership and make it aware of any decisions ahead of time. He said that, although I'm here after the fact to try to explain the decision-making process that went into the TBW Board's thinking and the rationale used. He said recognizing again that once the plant met its performance testing requirements and both agencies had agreed that TBW could recover revenue from the District to help pay for the desalination plant, TBW could then look at all its resources and do what it thought was right for the rate payers of Hillsborough County and other five jurisdictions. (Track 2 – 00:00/05:41)

Ms. Whitehead thanked Commissioners Sharpe for attending today. The key thing is communication and this Board feels the same responsibility as well.

Mr. Pressman said he also appreciates Commissioner Sharpe coming today. The key factor is communication and it helps the Board to hear TBW's perspective as the District works with its partners. This reminds the Board there are different perspectives which should be addressed when making decisions and developing policies. Everyone's perspective on these issues should be considered.

Mr. Adams said as a constituent of Pinellas County and TBW, he appreciates Commissioner Sharpe being here and TBW Board's efforts in making decisions. As a member of the District Governing Board, he said he appreciated the statements as to the decisions of TBW, how the Board went about them, and the rationale in making the decision. Economic crisis or not it is always best to conserve taxpayers' dollars. Mr. Adams said he appreciates and applauds TBW's actions. Generally, both agencies should be celebrating because it is a success that costs and groundwater usage were lowered. He said everything is a positive and emphasized his appreciation for Commissioner Sharpe's comments on communication and working as partners. He said Board members represent not only the District but also all the constituents and should help them understand the goals of conservation and saving money. Mr. Adams said he applauds TBW's decision for utilization and saving money but, as an entity that works in partnership, communication and understanding should also be a goal. He said he appreciates Commissioner Sharpe stepping forward to be the front for the group to explain their wise decision making. He said both agencies need to communicate before hand and work together.

Mr. Gramling thanked Commissioner Sharpe for being here to provide an explanation and said he echoes Mr. Adams' comments as well. He said the Governing Board looks forward to launching a new day in the two agencies' relationship as well as making it more amenable to the taxpayers.

Mr. Combee said the Governing Board understands the why due to the severe economic crisis. He noted that this situation will continue for a while creating continued lower usage, lower revenues, and therefore budget problems. He asked whether the TBW Board of Directors has held discussions about moving forward and what changes are needed. (Track 2 – 05:41/11:00)

Commissioner Sharpe responded that the challenges faced by TBW are the same faced by Hillsborough County and the District. TBW was encouraging everyone to use less water when Mr. Moore spoke to the TBW Board about collaboration to send that message to the citizens. It was exciting to see how successful this has been in leading the charge around the country with regard to the reduction in the use of water. But, no one saw that it would result in a severe reduction of revenue in regard to the operation of TBW itself. TBW staff worked to find cost-cutting measures and when staff came before the Board of Directors to show there would be a need to increase rates, several Board members were upset. Board members were not upset because the objective of reducing water usage had not been achieved but because no one had foreseen the need to raise rates. TBW did all it could do to find cost savings but recognizes the number one objective, and reason TBW was created, was to find a way to use less ground water, which was achieved. TBW is well below 79 mgd average but now needs to look forward and continue to cut costs. Until economic recovery occurs, there are several more years of downturn for local governments and revenue sources so entities have to operate differently.

Commissioner Sharpe said that, with regard to communication, it has been TBW's purpose since he came on the Board to make sure that TBW does communicate with the District. He said in this case there was a lapse and TBW should have spoken to the District, explained its rationale and answered the questions before hand. He said the District Governing Board has done its job which was to ask and to review the contracts and its understanding of the agreement. He said TBW's goal is to work with the District on important issues, such the South-Central Wellfield, and continue to meet the verbal agreement to use less water. Commissioner Sharpe reiterated his commitment to continue to do everything possible to do just that, as well as working for many more years with the District. He said we pray for economic recovery, growth and at some point deciding how to be judicious with the water as people begin moving back to Florida. (Track 2 – 11:00/14:26)

Mr. Senft also thanked Commissioner Sharpe for coming and for the spirit in which this has been presented. This is a partnership that is going to have to work well into the future because looking forward there will be issues such as repairing the Bill Young Reservoir. This partnership needs to work in sharing with other inland counties that do not have the opportunity for desalination. On a regional basis, both agencies are familiar with the discussions between Orlando and Tampa about a super-region. Orlando is moving forward with a water policy for its region, and entities on the Tampa side need to develop a future regional water supply plan and TBW will be an integral part of it. This partnership has to work even closer in the future so communication will be key.

Chair Oakley thanked Commissioner Sharpe for his comments and said he looked forward to working with him and TBW in the future. (Track 2 – 14:26/15:55)

Mr. Bilenky said both agencies have to look forward because there is an issue that underlies all of this in that there are strong feelings on both sides of this argument as to the nature of the operational protocols to the desalination plant going forward. The District has a legal opinion from 2005, which was reconfirmed this past week, stating the District has a legal belief that this was intended to be a base load unit to be run as a base load unit. TBW has a belief that it be operated as an economic dispatch unit meaning it is run when needed and, since it is the most costly facility, it is run last when other alternative water supplies are available.

Mr. Bilenky provided a review of the assumptions and facts since 1998. He said there is strong feeling the District is not entitled to look at the costs of the facilities and operating it when deciding whether to operate the plant or not. That assumption originated in 1998 when there was only one source of water—ground water. When looking at costs in 1998, it was either the costly desalination or the minimized cost of ground water. The Board was in the position to say do not consider cost; therefore, the desalination plant was to be dispatched. That argument is the first argument in the paradigm that goes away because there are alternative sources other than ground water that, while more expensive, they are less expensive than the desalination water. TBW is truly a utility now with multiple-core cost sources of water so that original assumption in 1998 goes away. There are other assumptions that are associated with the funding agreement that have a life through the year 2032. The District believes that this funding agreement is still in place with three critical components. While TBW may have disagreement as to whether the agreement has vitality, TBW may not believe necessarily that the conditions about not abandoning the facility, or not putting it into long-term standby, or not significantly modifying the facility can be done without coming forward and discussing it with the District. Setting that aside, the District is at a critical stage in its relationship with TBW since for the desalination plant Water Year 2010, which ends on September 30, is the last period discussed in any of the recent documents. Water Year 2011 begins October 1 and there is no specific language in any agreement other than what existed in 1998 for reconstructing where TBW should be today.

Mr. Bilenky said the other significant item is the list of assumptions that have changed from 1998 to present. The first assumption was that the desalination plant would be operating in the year 2002 to coincide with the first major permit reduction for the Consolidated Wellfield—158 mgd reduced to 121 mgd. It was believed that the plant would be the easiest and quickest facility to bring online to bring about the reduction—it did not happen. There was a water purchase agreement that required the plant to be operated at a minimum of 21.25 mgd for two three-month periods during the year. For the other two three-month periods, it was to operate at a minimum of 23.75 mgd. The agreement basically said it will operate every single day of the year. It was under a take-or-pay agreement with an owner-operator; TBW had to take the water and in any event it had to pay for the water. That take-or-pay purchase agreement went away when the entity that owned and was building the facility went bankrupt, and TBW took over the facility. That assumption that there would be take-or-pay agreement also went away. The next thing that happened that was not anticipated was the surface water treatment plant

would come online and take up the slack which in fact it did. In 2002, TBW was successful in reducing its pumping from the central wellfields to 121 mgd. Due to hydrologic conditions during that period, TBW was also able to meet the subsequent target of 90 mgd which occurred before the target date. It was a real advantage to show that, even without the desalination plant and the right hydrologic conditions, the surface water treatment plant could meet all those objectives.

Mr. Bilenky said there were additional changes that occurred. The District contributed \$25.7 million to TBW for purchase of land upon which a 15-billion-gallon reservoir was constructed. Under the original partnership agreement, the District also contributed funds to TBW for an aggressive water conservation program intended to bring about a 17 mgd reduction in demand. It was so successful it actually reduced demand by 40 mgd. In 2007 when the second step in the consolidated permit reduction was to occur (120 mgd reduced to 90 mgd), the desalination plant was constructed and being tested. Although the plant was not accepted yet or being used as a base load unit at that time, it was contributing to the production of water and TBW met the 90 mgd reduction. Another assumption that changed was the District went into the second phase of the Partnership Agreement and contributed money toward the expansion of the surface water treatment plant, raising its capacity from 60 mgd to approximately 99 mgd. There were so many assumptions and most of them did not occur such as the assumption that the desalination plant could be constructed for \$110 million of which the District was going to contribute up to \$85 million or 90 percent of the cost. The plant cost approximately \$150 million so the cost was higher than expected. Operating and maintenance expenses and energy costs also exceeded the assumptions. It was proved that the plant could operate for 12 months at 20 mgd as originally projected in the Partnership Agreement. It was one of the two facilities that had to be constructed under the Partnership Agreement to bring on 85 mgd of new alternative supplies to help the wellfields. The funding provided by the District was to bring about the environmental recovery on the central wellfields and is being currently tested at 90 mgd. The second thing it proved up was that the plant could operate during a hydrologic cycle of 25 mgd for four months. The importance of this is that, due to droughts in the past, entities had to rely on every single drop of water available and stress the importance of conservation.

Mr. Bilenky said the desalination facility will be used so why is this discussion needed. The underlying argument is how should the desalination plant be operated. Staff has a firm belief on the side of the District that it was originally intended to be a base load unit. On the other side of the argument, TBW is saying it should be economically dispatched. Both entities are at a critical stage since a new phase is about to start—going past the last water year that there is any sort of agreement on. It is appropriate at this point that TBW and the District discuss how to view the operational protocol going forward and reach an agreement because there are potential problems in the event that the District does not reach an accord on this agreement.

Mr. Bilenky said there are three alternatives available. The first one is to ask the court to look at all the documents and try to determine the rights of the parties going forward. The second alternative is to do nothing and leave it the way it is. There are significant risks to doing that which are that this could become an issue in the event that other permits are reviewed with TBW. The third item is to try to resolve the difference of opinion as to how this facility should operate going forward. The timing of such a discussion is perfect because there has been a great deal of success bringing on new alternative water supplies. Hydrologic conditions are favorable at this time. The slowdown in demand is not critical at this moment so both parties are not under duress to reach an accord. If there is anything to come out of the economic downturn, it is a favorable time to review the options. The effects of the downturn are known since TBW had to confront that issue on the short term to meet the Water Year 2010 and its budget conditions.

Mr. Bilenky said his recommendation at this point would be that the Governing Board address this issue with TBW and bring back an accord and having the Governing Board

approve the operational protocol. He said parameters for consideration as “must haves” should include that TBW will meet all of its permit requirements, TBW will continue to meet the 90 mgd targets for the central wellfields, and TBW not abandon or place the facility in long-term standby or modify the facility since that would cause problems in some of the existing agreements. He noted that Mr. Jerry Seeber, TBW General Manager, is here and may want to address the Board. (Track 2 – 15:55/28:40)

Mr. Combee asked Mr. Bilenky if he feels there is a conflict or a number of conflicts with the way TBW is operating and requirements for the Partnership Agreement. Mr. Bilenky responded that there are certain requirements in the funding agreement and a difference of opinion exists that need resolving. He said both parties need to discuss a modification since there is a provision in the agreement dealing with modifications to the project (facility). He noted, if the project’s operation is modified, it would be better for both parties to reach an accord than take the matter to court. Mr. Combee said, since it may be three or four years for an economic recovery, he has been looking for a sector(s) that can help this situation and put people back to work. He said this will impact revenues to TBW and how TBW will operate. Mr. Combee said it is important that there is an understanding of what is expected on both sides and the Board certainly does not want to go to court. Mr. Bilenky said that reaching an accord going forward will respect all the decisions of previous boards. He noted that none of these changes will affect those decisions which were based upon assumptions and information available then. Mr. Bilenky said many of the underlying assumptions on how the facility would be operated have not come to pass and it needs to be addressed on the information available now. Mr. Combee said everyone probably agrees that they do not want TBW’s customers to pay anymore than they have to while at the same time protecting the resource and the environment.

Mr. Adams noted that he has read the agreements and amendments. He stated reviewing the documents reveals there are a lot of assumptions that were well grounded and well intended, although a lot of the assumptions are no longer necessary or active. He said it is a success story. Mr. Adams said the goals of reducing ground water utilization and conservation were achieved and better than anticipated or hoped for. He said both parties should be up here celebrating but instead, because of differences potentially in interpretations on the amendments, TBW made a decision in its best interest to help its constituents in lowering the cost. Legally, Mr. Adams said he is in agreement with Mr. Bilenky. He said he thinks that the District is in a position to address this matter although there are differences between TBW and the District regarding the agreements and amendments’ requirements, legal obligations and duties. He said he agrees with Mr. Bilenky and reached the same understanding of the agreement that the District is in a legal position where TBW has not necessarily complied, which is factual. From a business and partnership standpoint, Mr. Adams said the meaning needs clarification which would be one of the few benefits but would show the District was right. He said that having this discord resolved now moves the agencies forward to work together and improve communication. He said both parties need to clarify expectations of the partnership and meeting usage, goals and assumptions. Mr. Adams said he would not recommend pursuing legal options but to extend the olive branch to benefit everyone.

Mr. Pressman said it is a critical time to reevaluate and understand the factors that are now involved and see how those changes have occurred. He said the successes are well noted, but there is a difference in perspective. He noted that, before the District was balancing the drought and how much water pumped and now economic and taxpayer elements are an added factor. Mr. Pressman said the District’s perspective is different and both parties need to work together, but the Governing Board needs to ensure that the District’s perspective is accepted and part of the formula. Mr. Pressman asked what is driving TBW to sit at the table with the District on these “new” issues. Mr. Bilenky responded he assumes that TBW recognizes that this is a critical juncture and the right time to have this discussion. Mr. Pressman asked whether TBW needs to discuss this with the District if the contract is ending with Water Year 2010. Mr. Bilenky said the underlying disagreement still exists regarding whether a base load or economically

dispatch unit as well as other operational criteria in the funding agreement. He said all the assumptions have changed and there is a tension between the District and TBW regarding operation of the desalination plant. Mr. Pressman said the desire of working through disagreements of opinions or where there may be friction in the process of moving forward and the operation protocol is why TBW would want to work through this. Mr. Bilenky said every time the plant is not operating, the news media contacts the District to ask if staff is aware. He noted both parties are criticized in the media and no one wants that. Mr. Pressman said working together is clearly the option to pursue.

Ms. Whitehead noted that she has been on the Governing Board for some time and her perspective is that it is not our money or your money but the taxpayer's money and the rate payer's money. She said the Board is charged with the responsibility of spending the money wisely. She said she remembers when the Board had to redo the finance agreement which was a struggle but the Board did a terrific job. Ms. Whitehead said the Board has to ensure that money is not spent unwisely. She stated that both parties need to move forward with a clear understanding in all events—economic, ecologic, environment, droughts, water, etc.

In response to Mr. Beruff's questions, Mr. Bilenky said TBW budgets like the District (October through September) so TBW's water year and how revenues are calculated are based on a budget from the operation of their facilities, and the total plant cost was \$150 million. Mr. Beruff said, from his perspective, there is a \$150 million capital investment receiving zero utilization and it does not make any sense to have that \$150 million dormant. He said the plant was built in order to facilitate needs that are no longer necessary and asked whether other parts of the District are being impacted by the lack of the use of that plant because surface water is being taken from other areas that may be used in the future. Mr. Beruff said, whether it takes five or ten years for the economic recovery, if there is not some kind of modification to this agreement other areas of the District could be impacted by the way this matter is handled and set a precedent. He said precedent setting is a concern since the District looks 20 years into the future and what does it do to planning if TBW never fully utilizes this plant.

Mr. Tharp said TBW has heard the sentiments of the Governing Board and he would like to hear from TBW based on today's comments.

Mr. Senft said he looks at the plant as an asset, and TBW has an asset that is not being fully utilized for which the District helped pay for in a large measure. He said that, if TBW does not need it at this time, someone somewhere does. He stated that TBW needs to be a larger partner with the District, and everyone needs to have a regional vision about needs and demands. Mr. Senft said no one knows when that demand will come back and the water needed, but on a short-term basis, it could be made available to those in need. He said the only missing element is how to move it around this region which might be something to prioritize in the future. He said the District could be working in partnership with TBW to have some type of regional network. Mr. Senft noted that the downturn in the economy is short term in the big picture. He said the District needs to have regional vision and needs TBW as a larger partner since it has the asset to make water available. He said both parties need wisdom to make the water available to areas in need. (Track 2 – 28:40/50:27)

Mr. Jerry Seeber, TBW General Manager, said he appreciates this opportunity to speak directly to the Governing Board on important issues. TBW's sole mission is to provide safe, clean, reliable water supply for its six-member governments and the 2.5 million people served by these governments. TBW does that in a variety of ways and, from an operational perspective, it is done by contracts. TBW's contracts with the District take the form of permit conditions. TBW has contracts with its six-member governments that created this agency to provide reliable supply. TBW has contracts with the bondholders who loaned the money to build the system and with the rate payers who provide the income to retire that debt.

Mr. Seeber said the desalination plant must be ready to provide water when it is needed—it cannot be turned on and off with a switch. The plant will be used every year and operated every year which is needed from a mechanical perspective. In most years, its full rated capacity is not needed. Mr. Bilenky used the phrase of economically dispatched facility, and it is also a demand dispatched facility as well. Those two are fundamentally related this year because of the existing economic conditions. In dry years, it will be needed to meet demand and used to meet demand through the region. That flexibility, which the District helped to provide, is one of the key strong points of the regional water supply system in Tampa Bay. That strength provides flexibility to meet demands at different times of the year and in different years with different supply. TBW and the District tend to talk in terms of annual averages, but the system and real world experience is such that there are fluctuations around that average in any given year. The ability to meet demand on any given month or any given day with existing facilities is one of TBW's strengths. TBW's use of the plant is predicated upon economic conditions for right now and TBW anticipates increased use when the economy begins to grow again and demand returns. In the meantime, TBW will use it to meet demand in certain months when needed in order to meet contractual requirements to the District in maintaining compliance with all of TBW's permits. TBW is operating the facility right now in an idle or standby mode because it has been raining and an ample supply of surface water is available. TBW has an ample supply for abundant uses to draw upon and stay well below the permit limitations that we have. Commissioner Sharpe mentioned that TBW is pumping about 79 mgd in the Consolidated Wellfield areas. Therefore, TBW will meet its pledge to minimize groundwater production by utilizing surface water and desalinated water.

Mr. Seeber said Mr. Bilenky did a good job summarizing some of the assumptions that have changed, and it speaks to the key issues that TBW's Board to achieve the balance needed to factor into its decision making. For TBW, it is a balance between reliability, environmental sustainability and costs. All of those factors enter into the decision making each year—it manifests itself in the budget cycle. Those factors are on the minds of TBW's Board with each of the decisions made. To answer the question posed by Mr. Pressman on why would TBW would participate in this conversation, the short answer is TBW wants to. It is important to TBW's Board to have a strong working relationship and partnership with the Governing Board—it always has been and that is not changing. TBW knows that it needs to work closely with the District and staff to achieve the objectives shared by both parties because TBW recognizes that in many ways, it shares the same constituents, works for the same folks and needs to work together to achieve mutual objectives. TBW looks forward to moving ahead to improve the communication opportunity and to communicate directly with members of the Governing Board on the issues that are important to both parties. (Track 2 – 50:27/56:10)

Mr. Gramling thanked Mr. Seeber for coming today. Concerning the contract and living up to the contract, he said he feels the District has a valid contract that requires TBW to operate the plant. However, he is not willing to face his two brothers in explaining why the cost of their water has increased significantly when there are plenty of alternatives. He said he supports in principle amending that agreement and would like TBW to submit a request to the District to amend existing agreements, recognizing Mr. Bilenky's concerns whether TBW necessarily believes them or not. He said this should provide plenty of latitude to move forward with a good partnership. Due to today's economy, Mr. Gramling said it is safe to say that none of the Board members would probably approve the funding for the desalination plant today knowing what is known today. The world has significantly changed; looking forward, both parties need to put that behind and work to ensure a good relationship and an agreement that is clear to all.

Mr. Gramling said one of the key issues he struggles with is how to provide sufficient water for some of the inland counties and most specifically, Polk. He said he does not see a financially feasible way. He asked staff to keep that in mind while moving forward and negotiating whatever relationships appropriate to resolve in some manner those needs

that are certainly in the distance but, in the terms of the big scope of things, not that far off. The second increasingly important issue is the central part of Hillsborough County with the Dover-Plant City wells. To the extent possible, Mr. Gramling said he also respectfully requests that TBW do what it can to minimize use of its BUD wells in south Hillsborough County during frost-freeze events to maximize or lessen the impact on the aquifer during times when people with demands have no alternative but to pump from their wells. Finally, Mr. Gramling said he hoped that the 25 mgd from the desalination plant will be considered when it comes time for requesting future quantities and to maximize the impact of that source within the system.

Mr. Pressman said he would like to ask District staff about requests from inland counties and what the relationship is, and if there is a relationship, between running the desalination plant at a higher level and how that would potentially be a positive impact for inland counties. He noted that the District's perspective is certainly going to be a little bit different than TBW. Mr. Pressman said he wants to be sure that this discussion is needed and if the District needs to be looking at that asset as Messrs. Senft and Combee mentioned. He said it is an important consideration since he has not heard definitively where that asset lies in those discussions. Mr. Pressman said, at last month's meeting, there were some communication problems, but he wanted to indicate to the senior staff that they have his full support. He said he has the highest regard for District staff.

Mr. Senft said, regarding future requests, his perspective is a little different than Mr. Gramling's about how the desalination plant may affect inland county availability. He noted that a month or so back the District received a request from TBW for 100 percent of the available quantities of water above the minimum flows and levels for the Alafia River. Mr. Senft said Polk County could use some of that capacity, and it does not have an idle desalination plant sitting there. He said this is the type of situation where both parties need to work closer together.

Mr. Pressman said his point is that he wants to hear from staff about those inner relationships—numbers, figures.

Mr. Joerger said, based on what Mr. Pressman said, he would like a short answer as the Board considers this choice. He asked whether the water is just going past and flowing into the Gulf of Mexico to disappear, or is there a way to harness the excess water for the benefit of the whole District or a portion of the District. Mr. Joerger stated that, if it is just going into the Gulf of Mexico and not serving an economic or environmental benefit, then is it a "use it or lose it" moment, or if there is some additional benefit to be gained from the excess water.

Mr. Adams said to Mr. Seeber that, in discussing earlier about going forward, he did have concern on a partnership going forward. TBW made conscious decisions with good rationale but conscious decisions to alter the usage without any discussion or notification pursuant to the agreement to the District as a partner. While he does look forward to moving ahead in a good partnership, Mr. Adams said he also feels as though he was a partner that let the dogs bite me once and understand who fault it is if I let them bite me again. He said, as both parties move forward, he hopes there is communication and everybody understands the rationale or decisions to make changes to any agreements be worked out and discussed beforehand.

Mr. Beruff asked, in going forward with the agreement or modification to the agreement, what kind of time line would that have. Mr. Bilenky said that is really a suggestion from the Board. If the Board wants, District staff will work with TBW and come back in two months. He'll have to discuss this with Mr. Seeber about what a reasonable time would be. Mr. Bilenky said the deadline is relatively short since the new water year is beginning.

Mr. Beruff asked what the life of the agreement itself is—10, 20 or 30 years. Mr. Bilenky said part of his vision is that both parties are looking at an operation protocol. He noted

that Mr. Senft's concerns related to permitting issues which should not be included in an operational protocol. Mr. Bilenky said general statements can be included that desalination will be taken into consideration when coming in for permit renewals or modifications to abide by the environmental constraints. He reiterated it is a more general type of operational protocol recognizing that the desalination plant will be economically and environmentally dispatched rather than being a base load unit.

Mr. Beruff said his concern is that in the event of recovery in five or ten or 15 years, Polk County exceeds the growth of the TBW water area and TBW has facilities that are not being fully utilized. He asked whether it can be part of the modification to the agreement that TBW will sell water at an economically feasible rate to other areas of the District. Mr. Bilenky said there are other constraints on TBW other than its permits and agreements with the District. He noted that TBW has member governments that decide on how TBW can sell water to other entities.

Mr. Seeber said he had a couple of points to respond to at the appropriate time.

Mr. Beruff noted that as partners 90 percent of the \$150 million came from the District. Mr. Bilenky said the District spent \$91 million including interest. Mr. Beruff said the District has a vested investment in that water and he noted that TBW's member governments also are involved. He reiterated that it is underutilized capital that should not be sitting around.

Ms. Closshey said she has heard the entire discussion which is very robust and healthy and covers such a broad span of topics. This discussion is evidence that there is a working, ongoing partnership; and these sorts of discussions are typical, normal and to be expected in this kind of relationship. She said she echoes the agreement that the District move forward with trying to come to a working agreement about how to move forward from here. This may be the first of continuing discussions as the environment changes. One of the points is this agreement was intended to be long-term. As a long-term agreement, Board members have to factor in the situation of today as contrasted by five or ten years ago and also anticipate changing economic, environmental and population in the future. Ms. Closshey requested District staff to update the Board on the history and all the science behind the environmental driving force of the desalination plant and the other supplies coming into existence, specifically what the groundwater needs are. She said she knows the District settled on criteria for TBW as the 90 mgd, but recalls that discussion included other numbers being relevant and significant. Ms. Closshey asked that the Board to become fully informed about that history, that science and so on. She noted that several environmental groups have contacted her to express concern about whether the needs of the environment are being sufficiently addressed and questioned if this is the opportunity that could provide sufficient rest of the water usage and allow the environment to have an even speedier recovery than it has been experiencing. Ms. Closshey said the District does celebrate the achievement of the 90 mgd and recognizes that it is an important milestone and one of the many elements that factor in to move forward. She said she supports the working agreement and suggested that a reasonable amount of time be determined for both staff to work together and report back to the Governing Board. (Track 2 – 00:56:10/01:11:45)

Mr. Seeber said he would address the inquiries in the order made. One of the comments Mr. Gramling offered had to do with water for inland counties. TBW staff has been in contact with Polk County and held half a dozen meetings with Polk County government staff in the utilities department to talk about how to work closely with them as they go about the work of planning future water supply. TBW and perhaps the Polk County Board of County Commissioners could work together at a policy level on these issues going forward. Polk County's needs, like TBW's, are a bit out into the future and are a function of when the economy recovers and growth returns. Mr. Combee asked Mr. Seeber how he would rate or characterize those discussions up to this point. Mr. Seeber said very positive and have been fairly regular in terms of trying to address issues that include Mr. Senft's issue of the Alafia River withdrawal and how that might be used.

Mr. Seeber said the Board is correct in the sense that TBW is looking to renew the permit on the Alafia River. TBW is not looking to take 100 percent of the water because in years like this, for instance, there is no place to put the water since the reservoir is full and that means an awful lot of water going to tide. Mr. Combee said it was his understanding TBW wanted to take 100 percent of everything above the minimum flows and levels when needed. Mr. Seeber said there are times when capacity is available to take more than is being taken now but there are also limitations hydraulically on withdrawal points. TBW cannot take as much as goes by even when there is a place to store it—the straw is not that big. TBW has talked to Polk County staff about how the County's needs might be met. The TBW Board does have the authority under the Interlocal Agreement that established TBW to engage in sales to entities other than its six-member governments. Of course, any of TBW's members like Hillsborough County could enter into an agreement with Polk County to provide supply. The biggest issues are connection points and the costs to make those are tremendous.

Mr. Seeber said in regard to the frost-freeze issues in the Dover-Plant City area, he requested a written explanation of what the District would like TBW's Board to consider.

Mr. Seeber said with respect to the notifications to the District, TBW would be glad to communicate directly with the District Board members on issues as they come forward and/or on a regular basis. Decisions were made as part of TBW's budget deliberations. TBW adopts in June of each year for the fiscal year that begins in October so decision making happens in the spring of each year. Mr. Combee asked if that cycle is to accommodate local governments. Mr. Seeber replied that it is since the six-member governments need to know what the rate will be in their budget deliberations. Chair Oakley asked if the budget includes use of the desalination plant for a certain amount. Mr. Seeber said the budget includes each source of supply that will be utilized during that upcoming water year. Therefore, TBW is predicting the weather for the next 12 to 18 months and some flexibility is needed for those days when predictions were incorrect. Chair Oakley commented that, when work begins on the reservoir, there will be a need for the desalination plant at that time. Mr. Seeber replied absolutely and TBW recognizes the need under the rule to maximize the use of those alternative supplies when the reservoir is under construction those few years.

Mr. Combee asked how Mr. Seeber ranked his budget crisis for the coming or current year. Mr. Seeber said like its member governments, there have been reductions in force and tremendous reductions in contracts for professional services. One of the things that TBW is doing to keep its costs down is by cutting back on services engaged from third parties. For instance, TBW does a lot of water supply planning since supply must be ready when the demand exists; so TBW looks out 5, 10, 15 and 20 years into the future on supply. TBW has taken a lot of that planning work and stretched it out because TBW recognizes the next increment of supply is going to be needed for perhaps another decade. TBW is a pretty small agency with only 125 employees. Unlike its member governments who spend about 70 percent of their money on labor and benefits, TBW spends seven percent. TBW looks for cost savings on professional services. The budget contains a debt service of 74 to 75 percent, and TBW has over \$1 billion of debt. Mr. Combee asked what percentage is professional services. Mr. Seeber replied seven to ten percent.

Mr. Seeber said, with regard to the comment on an asset not being used, TBW uses that asset to provide water supply when needed every year during those months and in those years when there is a drier than normal hydrologic cycle and alternative supply is needed from the desalination facility. Because of that debt and the substantial debt service, TBW does have limitations on the rate charged that impacts its members, and any transaction that the TBW Board may consider with entities outside of TBW would have to reflect that.

Mr. Seeber said, with regard to the comment about schedule, he suggested the December timeframe as the appropriate target. The TBW Board meets in about three weeks which may not provide enough time for the Board to consider something as early as its meeting on October 18. In response to Chair Oakley, Mr. Bilenky said the December 14 Governing Board meeting will work. Mr. Seeber noted that TBW meets on December 13.

Mr. Gramling asked if Mr. Seeber has an update on when the reservoir repair will begin and any changes in the anticipated duration. Mr. Seeber said there are no changes in the anticipated duration and expect construction activity to take 24 months from the time it starts. He said the schedule up to the present has been for TBW to be in a position to award a contract to a selected design-build firm in the spring of 2011. TBW staff anticipates that, at the very least, it will take six to nine months to obtain a permit from the Florida Department of Environmental Protection for modification of the permit that governs that facility and that is the unknown in the procurement process. If that takes longer than nine months, and the last time it did, then staff anticipates the construction schedule being delayed. From a procurement side, staff is still moving forward at the pace that was anticipated earlier. The procurement process includes a two-step process to get qualifications and then submit proposals from pre-qualified firms. TBW's Board will see a recommendation on firms at its October meeting, and an RFP issued in November. Staff will provide a recommendation before its Board in late spring/early summer 2011.

Mr. Beruff asked whether the plant is currently sitting idle. Mr. Seeber said it is operating in an idle mode and noted there are two pieces to the plant. There is a pre-treatment process and a membrane process. The plant is running the pre-treatment process in an idle or standby mode. The membranes are not utilized until water is needed. Staff anticipates that later this fall and into winter the membrane portion will be turned on and begin to provide desalinated water. Mr. Beruff commented that there is no time lag in ramping the facility up. Mr. Seeber said it takes a few weeks to do it properly. TBW has to operate the facility every year through the membrane process as well to ensure reasonable reliance on that facility to produce the 20 to 25 mgd in those years when needed. The plant can't be operated in an idle/standby mode for an indefinite period.

Mr. Combee commented that, although economic conditions change, circumstances change, the one thing that doesn't change are options available to inland counties like Polk County. He said that, while he wants to be as reasonable as he possibly can be with TBW, he can understand the whys. Mr. Combee said he does want to see genuine cooperation between TBW and Polk County. He said he knows he speaks for Mr. Senft and probably every member of this Board. Mr. Seeber said TBW is pledged to that, and the work that has been done this far is indicative of that. He said TBW has offered to lend some of its expertise to Polk County. Mr. Combee commented the people in Polk County pay the same tax rate that people pay in the rest of the District so they have a significant investment in water supply for the Tampa Bay area and expect to be treated fairly.

Chair Oakley thanked Mr. Seeber for being here. (Track 2 – 01:11:45/01:24:25)

Submit & File Reports – None

Routine Reports

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

18. **Litigation Report**
19. **Rulemaking Update**

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

Finance and Administration Committee

Discussion Items

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

21. **Fiscal Year (FY) 2011 Budget Update**

Committee Chair Tharp said there are no proposed changes to the tentative budget for FY2011 which was unanimously adopted on September 14, 2010. He noted that the budget update is provided in the Board's meeting materials. Committee Chair Tharp noted that, since the hearing, the District has received a letter from Governor Charlie Crist stating "I again applaud efforts by your Governing Board to hold property taxes constant for three years in a row even though this has resulted in a decrease in district revenues. Additionally, I commend the Governing Board's support of the tax rate reduction recommendations by the Hillsborough River and Pinellas-Anclote River Basins and for reducing its district-wide millage. This means property taxes levied by the Southwest Florida Water Management District have been maintained or reduced for four consecutive years." He noted that copies of the letter were distributed to the Board members and are available for the public as well as posted on the District's web site.

Committee Chair Tharp said the final public hearing is scheduled for 5:01 p.m. later today (September 28, 2010). (Track 3 – 00:00/03:14)

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

22. **Board Travel**

Ms. Kavouras said Ms. Closshey has requested to attend the "Water Choices Forum Part I: Water Quality" at the University of Central Florida in Orlando on October 19, 2010. The total estimated cost is \$384 including registration, one night's hotel accommodation, mileage and per diem.

Following consideration, **Mr. Combee moved, seconded by Ms. Whitehead, to approve the Board travel request as presented. Motion carried unanimously.** (Track 3 – 03:14/04:25)

Submit & File Reports

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

23. **Office of Inspector General – Chemistry Laboratory Managerial Audit**

24. **Office of Inspector General – Project Information Management System Security Audit**

Routine Reports

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

25. **Treasurer's Report, Payment Register, and Contingency Reserves**

- Mr. Schiller provided an update regarding the State Board of Administration and noted that the District has \$8.4 million remaining in the fund.
- Mr. Schiller noted that ad valorem revenue is over projections for the 12-month period.

26. **Management Services Significant Activities**

(Track 3 – 04:25/06:19)

Finance and Administration Committee Chair Tharp relinquished the gavel to Regulation Committee Chair Beruff.

Regulation Committee

Discussion Items

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

28. **Amendments to Chapter 40D-21, F.A.C., Water Shortage Plan**

Mr. Owen said Committee Chair Beruff has requested that staff recommend to the Board postponing action on this item to afford more opportunity to review details of this rule. Ms. Lois Ann Sorensen, Demand Management Program Manager, provided an overview of significant proposed changes which include:

- Streamline data collection and declaration noticing processes
- Modify decision making process to include 24-month rainfall and 7-day streamflow data
- Clarify and enhance local enforcement and water utility reporting responsibilities
- Simplify lawn irrigation hours and car washing limits for ease of enforcement
- Remove problematic air conditioning and percentage-reduction restrictions
- Incorporate an exemption that was first used in recent water shortage orders for inconsequential fountains
- Update restrictions to specifically allow annual pressure washing in Phase II and require use of professional-grade equipment in Phase IV
- Clarify the applicability of low-volume irrigation and the relationship of HOA standards to District restrictions
- Institute once-per-week lawn watering, regardless of month, in Phase III instead of Phase IV

The most recent proposed changes, based on recommendations from the July 8, 2010 joint Advisory Committee meeting, involve revisiting the allowances for new plant establishment, interactive fountains and treatment of lawn hot spots. These changes are reflected in the draft amendments and associated Statement of Estimated Regulatory Costs, both of which were included in the meeting materials. Upon Board approval of amendments to Chapter 40D-21, F.A.C., District staff will complete the rulemaking process without further Governing Board action, unless substantive public comment is received or material substantive changes are proposed.

Following consideration, **Mr. Gramling moved, seconded by Mr. Combee, to approve postponing action on this item for consideration during the October Board meeting. Motion carried unanimously.** (Track 4 – 00:00/13:51)

29. **January 2010 Freeze Event Management Plan Update**

Ms. Alba E. Más, Director, Tampa Regulation Department, provided an update to the Board of the September 14 workshop, other outreach efforts, any substantive changes to the draft rules based upon input received to-date, and on the outstanding well liability cases in Legal. The current rule adoption schedule has the Board approving the rules at its November 2010 meeting.

Regarding legal pursuit of well complaints, Ms. Más noted that 65 files were sent to the Office of General Counsel and 43 remain open. She said 31 files regard one permittee who has not complied with obligations and the other 12 should be closed appropriately.

Mr. Gramling reviewed his concerns regarding rule language. Mr. Owen said staff will address these comments and noted that there have been other suggestions brought to staff's attention. He said the draft rules contain staff's recommendations, and changes and other concepts can be considered at a future time. (Track 4 – 13:51/25:14)

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

At this time, the accepted addition to the agenda was considered.

Partial Release of Conservation Easement and Quit Claim

Mr. Bobby Lue, Director, Brooksville Regulation Department, said Environmental Resource Permit (ERP) No. 43028095.001 was issued October 24, 2006, to Terra Bella that authorized construction of a Surface Water Management System to serve a 204.62-acre residential development. The project site is located on the north side of State Road 54, approximately one-half mile east of Collier Parkway in Pasco County. To partially compensate for impacts to wetlands within the project area, a Conservation Easement was required and subsequently recorded on June 15, 2007.

Mr. Lue said Terra Bella staff recently informed the District that a small parcel of land was recorded in the Conservation Easement in error. Specifically, 0.0272-acre (1,187 square feet) of what is now a part of a roadway serving the development was included in the Conservation Easement. This parcel of land needs to be released to allow the permittee to complete the final platting for the development. Staff reviewed the permit, survey documents, and the conservation easement and confirmed that the area in question is not necessary for the mitigation required by the permit. The impacted area is included in the attached sketch and legal description of the Conservation Easement. In as much as this 0.0272 acre of Conservation Easement was included by the permittee in error, is not necessary to meet the mitigation requirements of the permit and is encompassing an area that is now a part of a roadway serving the development, no compensation to the District for the value of this proprietary interest is required.

Staff recommended to execute the Quit Claim Deed to release the 0.0272-acre parcel of land identified as Exhibit A of the survey documents of the previously recorded Conservation Easement.

Following consideration, **Ms. Whitehead moved, seconded by Mr. Tharp, to approve the staff recommendation as presented. Motion carried unanimously.** (Track 5 – 00:00/03:20)

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

There were no requests for applications or petitions referred to the Governing Board for final action.

Submit & File Reports – None

Routine Reports

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

31. **Public Supply Production Report**

- Mr. Owen noted that all utilities will be included in the monthly report.

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

33. **Overpumpage Report**

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

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

36. **Resource Regulation Significant Initiatives**

- Mr. Owen said each Board member received at their seats a copy of the memorandum regarding Tampa Bay Water's Optimized Regional Operations Plan (OROP) Annual Report for Water Year 2009, and he provided an update of staff actions.

(Track 5 – 03:20/06:35)

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

Resource Management Committee

Discussion Items

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

38. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said August is the third month of the four-month annual wet season (June through September) and rainfall during the month was above-normal, scattered, and regionally variable throughout the District. A low pressure weather system stalled over the region during the last week of August, bringing about one-half of the District-wide rainfall accumulation during the month. The provisional District-wide 12-month rainfall accumulation improved during the month and shows a surplus of approximately 2.3 inches above the long-term average. The 24- and 36-month cumulative rainfall deficits improved during August, ending the month approximately 6.5 and 6.1 inches, respectively, below the historic average. Most hydrologic indicators improved during August. Groundwater levels improved in all regions. Regional streamflow conditions showed a slight decline in the northern region, while they improved in the central and southern regions. Regional lake levels saw improvement, ending the month in the annual normal range in the Tampa Bay region, while remaining at below-normal levels in the Northern, Polk Uplands and Lake Wales Ridge regions. NOAA climate forecasts indicate above-normal rainfall conditions for September 2010 are inconclusive (i.e., equal chance for normal or below/above normal) regarding rainfall during October, and predict below-normal rainfall as progress into winter and spring (November 2010 through May 2011) due to La Niña conditions in the Pacific Ocean. Considerable declines in hydrologic conditions are likely should below-normal rainfall conditions occur during the coming winter and spring. (Track 6 – 00:00/07:56)

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

39. **Minimum Flows and Levels Priority List and Schedule Update**

Martin H. Kelly, Ph.D., Minimum Flows and Levels Program Director, Resource Projects Department, noted that, pursuant to Section 373.036(7), Florida Statutes, the District is required to annually update its priority list and schedule for the establishment of minimum flows and levels (MFLs), submit it to the Florida Department of Environmental Protection (FDEP) for review and approval, and include the approved list in the District's consolidated annual report. As indicated in the draft "Proposed 2011 Minimum Flows and Levels Priority List and Schedule," the District thus far has established minimum flows and levels on 16 freshwater river and estuarine segments, 9 springs, 104 lakes, 41 wetlands, and 17 wells (7 wells in the Northern Tampa Bay area and 10 wells in the Southern Water Use Caution Area to address saltwater intrusion).

Dr. Kelly provided an overview of the proposed MFLs Priority List. Four public workshops (one at Brooksville headquarters and one at each of the District's service offices) have been scheduled for early October to receive public comment and input on the proposed Priority List. Staff will distribute the draft "Proposed 2011 Minimum Flows and Levels Priority List and Schedule" for purposes of receiving public input prior to returning to the Governing Board in October for approval of the list that will be submitted to FDEP by November 15, 2010, as required by statute. (Track 7 – 00:00/13:11)

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

Submit & File Reports – None

Routine Reports

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

40. **Florida Forever Funding**

41. **Minimum Flows and Levels**

42. **Structure Operations**
43. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
44. **Significant Water Supply and Resource Development Projects**
 - Mr. Wirth said bids were received this week for the Lake Hancock structure and Sawgrass Lake restoration. He noted that Board members may contact him directly for more information; otherwise, details will be provided at a future meeting.(Track 7 – 13:11/14:34)

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

Outreach and Planning Committee

Discussion Item

45. **Governor's Transition Document**

Ms. Lou Kavouras, Deputy Executive Director, Outreach, Planning, Board Services and Ombudsman, said the Florida Department of Environmental Protection (FDEP) is coordinating with the five water management districts to prepare transition documents for the incoming Governor. This is done each time there is a change at the executive level to assist the new Governor and his/her staff in evaluating and learning about the districts and the successes, challenges and opportunities that each face. The document includes an overview of the district and its organization, its top three major accomplishments, a budget overview, a review of the district's program areas as reported in the August 1 budget submittal, its top three pending issues and any potential new issues that will need to be addressed in the near future.

The staff recommendation is for the Committee's review and acceptance of the draft document provided for review prior to submittal to FDEP.

Following consideration, **Mr. Combee moved, seconded by Mr. Tharp, to approve the staff recommendation as presented. Motion carried unanimously.** (Track 8 – 00:00/04:00)

Submit & File Reports – None

Routine Reports

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

46. **Comprehensive Plan Amendment and Related Reviews**
47. **Development of Regional Impact Reviews**
48. **Speakers Bureau**
49. **Significant Activities**
 - Ms. Kavouras said each Board member received a "Save the Date" flyer regarding a series of five Basin tours for the month of November 2010.
 - Ms. Kavouras said the fourth "Get Outside!" event is scheduled at Potts Preserve on October 23, 2010. She noted that a three-minute video showing the features of Potts Preserve was shown to the Board and has been posted on the District's internet sites.(Track 8 – 04:00/09:46)

Outreach & Planning Committee Chair Beswick relinquished the gavel to Chair Oakley.

Executive Director's Report

50. Staff Delegation and Governing Board Action on Individual Water Use Permits

Mr. Moore said staff will present the recommendations regarding the criteria initially approved by the Board in January 2009.

Ms. Marti Moore, Senior Attorney, Office of General Counsel, said that, at the January 2009 meeting, the Governing Board authorized staff to proceed with rulemaking to amend District rules to delegate to staff the authority to take agency action on most Individual Water Use Permits (WUPs). This rulemaking was withdrawn due to legislation mandating that all water management districts delegate permitting decisions to staff for all individual permits. However, as a result of legislative amendments enacted earlier this year, delegation to staff of all water use permit actions is no longer mandatory. Pursuant to District Order No. SWF 2010-011 adopted at the June 2010 meeting, the Governing Board again delegated to staff the authority to take agency action on all applications for individual WUPs, and authorized the Executive Director in his discretion to refer an application to the Governing Board for agency action. (Applications proposed for denial are presented to the Governing Board for action upon the applicant's request.)

Ms. Moore provided an overview of staff recommendations to return to the above-referenced criteria initially approved by the Board in January 2009. If approved, the Executive Director or designated staff will present an application for an individual WUP meeting any of the specified criteria to the Governing Board for agency action. The Executive Director will retain the discretion to refer other permit applications not meeting these criteria to the Governing Board for agency action. Circumstances when such referrals are appropriate include when the application is of significant public interest.

The staff recommendation is to approve staff referral of Individual WUP applications to the Governing Board for agency action when the application meets any of the following criteria:

- (1) The application is for a renewal or formal modification of an existing permit that authorizes a combined annual average daily water demand of 10,000,000 gpd or greater.
- (2) The application is for a new individual permit.
- (3) The application is for a renewal or modification of an existing individual permit and increases the authorized withdrawal quantity by, or allows a change in water use of, 100,000 gpd or more, or 10% or more of the permitted withdrawal quantity, whichever is less.
- (4) The application is for an individual permit to authorize environmental augmentation as provided in Chapter 4, Section 4.3.A.1.a.ii.(4) of the WUP Basis of Review.

Following consideration, **Mr. Combee moved, seconded by Mr. Gramling, to approve the staff recommendation as presented. Motion carried unanimously.** (Track 9 – 00:00/09:42)

Chair's Report

51. Performance Evaluations of the Executive Director and Inspector General

Ms. Elaine M. Kuligofski, Director, Human Resources & Risk Management Department, presented an overview of the Governing Board performance appraisal process as described in Board Policy 710-2 which governs the performance evaluation process for the Executive Director and Inspector General. It is necessary to begin this process now, in order for the Board to complete the entire process for 2010, in anticipation of Governing Board approval of the performance appraisals at its December meeting. It is anticipated that the final draft appraisals will be reviewed and approved by the Governing Board at its December 14, 2010 meeting.

Staff recommended to (1) adopt the proposed 2010 schedule for development, evaluation and adoption of performance appraisals for the Executive Director and Inspector General; and (2) select a person to assist the Governing Board with development of the 2010 performance appraisals for the Executive Director and Inspector General.

Following consideration, **Mr. Combee moved, seconded by Mr. Tharp, to approve the adoption of the proposed 2010 schedule for development, evaluation and adoption of performance appraisals for the Executive Director and Inspector General. Motion carried unanimously.** (Track 8 – 00:00/03:30)

Following consideration, **Mr. Tharp moved, seconded by Mr. Senft, to approve the select Ms. Kuligofski to assist the Governing Board with development of the 2010 performance appraisals for the Executive Director and Inspector General. Motion carried unanimously.** (Track 10 – 03:30/03:50)

Chair Oakley encouraged Board members to avail themselves of the opportunity to spend the night at one of the District's properties open to the public.

Mr. Pressman commended Mr. Wirth and staff for their expeditious coordination due to a flooding issue in northern Pinellas County. Discussion ensued regarding flooding situation.

There being no further business to come before the Board, Chair Oakley requested a motion to adjourn the meeting until the next regularly scheduled meeting. **Mr. Combee moved, seconded by Mr. Pressman, to adjourn and the motion carried unanimously.** (Track 10 – 03:50/08:14)

The meeting was adjourned at 12:16 p.m.

APPROVED

MINUTES OF THE WORKSHOP

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

BROOKSVILLE, FLORIDA

SEPTEMBER 28, 2010

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met in a workshop session at 1:09 p.m. on September 28, 2010, at District headquarters in Brooksville. The following persons were present:

Board Members Present

Ronald E. Oakley, Chair
Hugh Gramling, Vice Chair
H. Paul Senft, Secretary
Douglas B. Tharp, Treasurer
Jeffrey M. Adams, Member
Carlos Beruff, Member
Bryan K. Beswick, Member
Neil Combee, Member
Albert G. Joerger, Member
Todd Pressman, Member
Judith C. Whitehead, Member

Staff Members

David L. Moore, Executive Director
William S. Bilenky, General Counsel
Lou Kavouras, Deputy Executive Director
Richard S. Owen, Deputy Executive Director
Eugene A. Schiller, Deputy Executive Director
Bruce C. Wirth, Deputy Executive Director

Board's Administrative Support

LuAnne Stout, Administrative Coordinator
Tahla Paige, Senior Administrative Assistant

Board Member(s) Absent but available via phone:

Jennifer E. Closshey, Member

A list of others present who signed the attendance roster is filed in the permanent files of the District.

Chair Oakley called the workshop to order. Discussion ensued regarding Governing Board goals, policies and key positions; allocation of the Proposed FY2011 Budget by strategic initiatives; project/program evaluation, selection and decision making process, as well as other topics, which are summarized as follows:

Areas of Responsibility

- Board desires more discussion on the Areas of Responsibility other than water supply.
- Staff is to provide options to better address stormwater management in blighted redevelopment areas.
- Interest in the District creating a coastal springs initiative.
- Interest in the potential impacts of the Environmental Protection Agency's proposed numeric nutrient standards.

Water Supply

- Board wants staff to emphasize regionalism in terms of water supply.
- Board wants staff to evaluate potential uses for surplus water supplies.
- Staff is to propose an assortment of future alternative supplies for Board's consideration but work with local and regional governments in preparing options, and prioritize the development of alternative water supplies based on highest need, such as the needs of inland counties.
- Budget to fund comprehensive studies, if needed.
- Work with local governments to identify best water supply options.
- Promote regionalism and develop a funding policy that supports priorities.
- Develop a list of alternative projects for Board consideration and prioritization.

- Understand the status of the existing water supply plans.
- Consider placing 20-year to 30-year time frames on regional partnerships.
- Evaluate the utilization of surplus water supplies for use outside traditional utility service areas.
- Some interest in a second reservoir in the Tampa Bay Water-Polk County area.
- Interest in staff bringing options to the Board to expedite the recovery of the Southern Water Use Caution Area.
- Interest in further addressing per capita reductions in the northern District through incentive-based funding.

Agriculture

- Use District resources to support agriculture and functional landscapes, especially if jobs can be created.
- Expand agricultural programs.
- Finish strategic conservation initiatives.
- Interest in the use of ad valorem for less-than-fee acquisitions primarily on agricultural lands that provide functional habitat.

Strategic Planning

- Recognize the strategic plan as the Governing Board's guiding document and format it to ensure understanding.
- Staff to enhance the District's Strategic Plan with additional Board input (alternative project analysis) to further budget development and Board's understanding/monitoring of strategic initiatives.
- Tie projects and programs back to the strategic plan and measure success by tracking the milestones.

Basin Board Consolidation

- No consensus; pros and cons were discussed – concept must be vetted extensively if it is still under consideration.

Cooperative Funding Initiative

- Develop a variable matching funds matrix for inland versus coastal counties or different project types for the Board's consideration. Also, staff needs to bring to the Board options for helping cash-strapped partners by developing a matrix that would outline how cooperators could be eligible for a greater percentage of project funding.
- Office of General Counsel to examine the District's statutory authority to provide loans and provide a presentation.

Budget

- Governing Board budget to be developed more consistent with how Basin Board budgets are developed.
- Staff to show Board allocation of budget by strategic initiative.

Staffing Analysis

- Staff to proceed with efforts to retain an outside consultant to perform a staffing analysis to conclude in the May-June timeframe.
- Board is to be directly involved in developing the request for proposal (RFP)/request for bid (RFB) and consultant selection.
- Interest in the Human Resources Department having employees with staffing analysis expertise.
- Interest in delaying for one-year an employee's eligibility to be a member of the Florida Retirement System.

Urban Core – Redevelopment Permit Requirements

- Staff is to report on findings, options and process for the Governing Board's consideration.
- Staff is to investigate potential partnerships with existing redevelopment agencies.
- Consider options for legislative and rule changes.

Employee Suggestion Program

- Recognize Employee Suggestion Program participants during Board meetings.

The meeting was adjourned at 3:39 p.m.

The Southwest Florida Water Management District does not discriminate upon the basis of any individual's disability status. This non-discrimination policy involves every aspect of the District's functions including one's access to, participation, employment, or treatment in its programs or activities. Anyone requiring reasonable accommodation, as provided for in the Americans with Disabilities Act, should contact the Executive Department, telephone 1-800-423-1476 (Florida only), extension 4610; TDD ONLY 1-800-231-6108 (Florida only); FAX 352-754-6874.