

# APPROVED

## MINUTES OF THE MEETING

### GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

NOVEMBER 19, 2013

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 9:01 a.m. on November 19, 2013, at the District's Tampa Service Office. The following persons were present:

#### Board Members Present

Carlos M. Beruff, Chair  
Michael A. Babb, Vice Chair  
Randall S. Maggard, Secretary  
Jeffrey M. Adams, Treasurer  
Bryan K. Beswick, Member  
Thomas E. Bronson, Member  
David W. Dunbar, Member  
Wendy Griffin, Member  
George W. Mann, Member  
Todd Pressman, Member

#### Staff Members

Robert R. Beltran, Executive Director  
Kurt P. Fritsch, Inspector General  
Laura J. Donaldson, General Counsel  
Mark A. Hammond, Division Director  
Alba E. Más, Division Director  
Kenneth L. Frink, Division Director

#### Board's Administrative Support

Cara Martin, Board & Executive Services Manager  
LuAnne Stout, Administrative Coordinator

#### Board Member via Teleconferencing

H. Paul Senft, 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](http://www.WaterMatters.org)).

### **PUBLIC HEARING** (Video – 00:00)

#### 1. Call to Order

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

#### 2. Pledge of Allegiance and Invocation

Mr. Maggard offered the invocation and led the Pledge of Allegiance to the Flag of the United States of America.

### **Public Hearing**

Chair Beruff 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 Beruff 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 Beruff stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute limit may be granted by the Chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson. (Track 1 – 00:00/04:05)

3. **Additions/Deletions to Agenda** (Video – 03:51)  
Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer.

Mr. Beltran noted that there are no additions or deletions to the agenda.

**Mr. Maggard moved, seconded by Mr. Bronson, to approve the agenda as published. Motion carried unanimously.** (Track 1 – 04:05/04:30)

4. **Public Input for Issues Not Listed on the Published Agenda**  
Chair Beruff noted that no one submitted a *Request to Speak* card. (Track 1 – 04:30/04:50)

### **CONSENT AGENDA** (Video – 05:22)

Chair Beruff asked that, before the Board considers action on the Consent Agenda, whether there is anyone in the audience who wishes to address the Board regarding an item on the Consent Agenda. No one came forward.

Chair Beruff then asked the Board members if they have any items which need to be removed from the Consent Agenda for consideration on the appropriate Committee's Discussion Agenda. No items were moved by the Board.

### **Regulation Committee**

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

### **Operations & Land Management Committee**

6. **Lower Hillsborough Wilderness Preserve – Management Agreement with Hillsborough County for the Lower Hillsborough Wilderness Park System – SWF Parcel No. 13-300-162X**

Staff recommended the Board (1) approve the Management Agreement with Hillsborough County for Parcel 13-300-162X; and (2) authorize the Division Director of Operations, Maintenance and Construction to execute the management agreement and any amendment thereto.

7. **Henry Canal – Approve Non-Exclusive Utility Easement to Tampa Electric Company for Electric Service to P-5 Water Control Structure – SWF Parcel No. 20-005-116X**

Staff recommended the Board approve a Non-Exclusive Utility Easement to Tampa Electric Company across SWF Parcel No. 20-005-116X for electric service to P-5 Water Control Structure.

8. **Peace Creek Canal Project – Accept Donation – SWF Parcel No. 20-696-157**

Staff recommended the Board accept the donation and designate the property as acquired for conservation purposes.

### **Resource Management Committee**

9. **Authorize Submission of Preliminary Flood Insurance Rate Maps (FIRMs) for the Alligator Creek Watershed in Pinellas County to the Federal Emergency Management Agency (FEMA)**

Staff recommended the Board authorize staff to submit the preliminary FIRMs for the Alligator Creek watershed in Pinellas County to FEMA.

10. **Facilitating Agricultural Resource Management Systems (FARMS) – Sweetwater Preserve, LLC (H702), Hardee County**

Staff recommended the Board (1) approve the Sweetwater Preserve, LLC project for a not-to-exceed project reimbursement of \$281,500 provided from State Appropriations;

- (2) authorize the transfer of \$281,500 from State Appropriations allocated to fund 010 H017 FARMS Funds to the H702 Sweetwater Preserve, LLC project fund; and
- (3) authorize Executive to execute the agreement.

#### **Finance/Outreach & Planning Committee**

##### **11. Budget Transfer Report**

Staff recommended the Board approve the Budget Transfer Report covering all budget transfers for October 2013.

##### **12. Adopt and Approve the 2013 Performance Evaluation of Executive Director and Inspector General**

Staff recommended the Board adopt and approve the 2013 Performance Evaluations of Executive Director Beltran and Inspector General Fritsch that was completed by former Executive Director Guillory.

#### **General Counsel's Report**

##### **13. Administrative, Enforcement and Litigation Activities that Require Governing Board Approval – None**

##### **14. Rulemaking – Initiation and Approval of Rulemaking to Amend Rule 40D-1.607, Florida Administrative Code (F.A.C.), to Add Fee Reductions for Certain Formal Determinations of Wetlands and Other Surface Waters**

Staff recommended the Board authorize the initiation of rulemaking and approve amendments to Rule 40D-1.607, F.A.C., to establish a 50-percent fee reduction for petitions for formal determinations of wetland and other surface waters for properties already having had a formal determination, when the petition is submitted within two years of expiration of the existing formal determination and provided the petitioner certifies that physical conditions on the property and the methodology for conducting wetland and other surface water delineations have not changed since issuance of the prior formal determination, as confirmed by staff.

#### **Executive Director's Report**

##### **15. Approve Governing Board Monthly Meeting Minutes – October 29, 2013**

Staff recommended the Board approve the minutes as presented.

**Mr. Maggard moved, seconded by Mr. Mann, to approve the Consent Agenda as presented. Motion carried unanimously. (Track 1 – 04:50/05:23)**

Chair Beruff relinquished the gavel to Regulation Committee Chair Mann who called the Committee meeting to order.

#### **REGULATION COMMITTEE (Video – 05:40)**

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

(Mr. Babb entered the meeting.)

##### **17. Denial Referred to the Governing Board – Water Use Permit No. 20020395.000 – Steve Kingery / save1 (Citrus County)**

Committee Chair Mann said that Mr. Kingery submitted a *Request to Speak* card and asked him to come forward to address the Board.

Mr. Steve Kingery, resident of Crystal River in Citrus County, said his request is similar to the Surface Water Improvement and Management Program and Strategic Plan objectives. He said he is requesting a water use permit for recreational aesthetic use most valued by the public. He said it is his duty and right to his rightful share of subsurface waters be

used for the purpose of sustaining and improving aquifer levels to improve and protect surface waters. (Track 2 – 00:00/04:50)

Mr. Darrin Herbst, Bureau Chief, Water Use Permit Bureau, provided a brief overview of the project located in north-central Citrus County. The Applicant requested a water use permit (WUP) for recreational aesthetic use that authorizes an annual average quantity of 99,999 gallons per day (gpd), a peak month quantity of 99,999 gpd and a maximum day quantity of 99,999 gpd. Supplemental information provided by the Applicant indicated that there is no intent to install a well from which to withdraw groundwater or to use such requested quantities. Documentation supporting the need for the requested quantities was also not provided. The District determined that the Applicant failed to provide documentation that demonstrates that the water use is necessary to fulfill a certain reasonable demand, as required by Rule 40D-2.301(1)(a), Florida Administrative Code (F.A.C.).

Staff recommended the Board deny the proposed WUP application for failure to satisfy Rule 40D-2.301(1)(a), F.A.C., since there is no withdrawal of water.

Following clarification of the water use, **Mr. Maggard moved, seconded by Mr. Pressman, to approve the staff recommendation to deny the proposed WUP application for failure to satisfy Rule 40D-2.301(1)(a), F.A.C. Motion carried unanimously.** (Track 2 – 04:50/11:37)

**Submit & File Reports** – None

#### **Routine Reports**

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

18. **Overpumpage Report**
19. **E-Permitting Metrics: Online vs. Paper Applications**
20. **Individual Permits Issued by District Staff**
21. **Resource Regulation Significant Initiatives** (Track 2 – 11:37/11:47)

Committee Chair Mann adjourned the Committee meeting, and relinquished the gavel to Operations & Land Management Committee Chair Maggard who called the Committee meeting to order.

## **OPERATIONS & LAND MANAGEMENT COMMITTEE** (Video – 17:30)

#### **Discussion Items**

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

23. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, said October is historically the first month of the eight-month dry season (October through May) and rainfall totals for the month were at the base of the normal range in the northern region, while they were below-normal in the central and southern regions. The majority of the month of October was dominated by high pressure and dry air that inhibited rainfall and tropical moisture from entering the area. The low amounts of rainfall received were associated with remnants from Tropical Storm Karen, several weak cold fronts and diminished seabreeze/convective rainstorm activity. The District-wide 12-month and 24-month cumulative rainfall deficits

increased to 3.1 and 6.5 inches, respectively, below the long-term historic averages. However, rainfall during the four-month wet season (June through September) was abundant and significantly improved hydrologic conditions in all areas, bringing a District-wide rainfall surplus of about 5.9 inches above the wet season's historic average. As a result of low rainfall in October, most hydrologic indicators have begun to decline. Groundwater levels declined but remained within their normal range; while regional streamflow and lake levels declined in the central and southern regions, while they increased slightly in the northern region. Extended drier-than-normal rainfall conditions during the winter/spring months will worsen overall hydrologic conditions. (Track 3 – 00:00/06:16)

Mr. Beltran noted that the District received a request from the Tampa Bay Water for consideration of Phase III water restrictions. He said he met with TBW General Manager Matt Jordan and staff is waiting for additional information. He said a staff recommendation will be presented at the Board's December meeting. (Track 3 – 06:16/07:10)

Mr. Warren Hogg, representing Tampa Bay Water, provided an update on water usage from the desalination plant and the Alafia River. In response to questions by the Board, Mr. Hogg explained how the desalination plan operates to provide reliable, sustainable output. Discussion ensued regarding plant usage. (Track 3 – 07:10/18:10)

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

#### ***Submit & File Report***

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

24. **Youth, Wounded Veteran, and Disabled Hunting Opportunities on District Lands**

25. **Recreation Ad Hoc Committee Update**

Mr. Frink noted that the Committee meeting scheduled for December 10, 2013 was canceled and will be rescheduled to February 2014.

#### ***Routine Reports***

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

26. **Structure Operations**

27. **Significant Activities** (Track 3 – 18:10/18:59)

Operations & Land Management Committee Chair Maggard adjourned the Committee meeting, and relinquished the gavel to Resource Management Committee Chair Babb who called the Committee meeting to order.

## **RESOURCE MANAGEMENT COMMITTEE** (Video – 36:40)

#### ***Discussion Items***

28. **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.

29. **Minimum Flows and Levels**
30. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
31. **Significant Water Supply and Resource Development Projects**  
(Track 4 – 00:00/00:26)

Resource Management Committee Chair Babb adjourned the Committee meeting and relinquished the gavel to Finance/Outreach & Planning Committee Chair Adams who called the Committee meeting to order.

## **FINANCE/OUTREACH & PLANNING COMMITTEE** (Video – 36:57)

### ***Discussion Items***

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

### ***Submit & File Report***

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

33. **Legislative Update**

### ***Routine Reports***

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

34. **Treasurer's Report and Payment Register**
35. **Monthly Financial Statement**
36. **Monthly Cash Balances by Fiscal Year**
37. **Comprehensive Plan Amendment and Related Reviews**
38. **Development of Regional Impact Activity Report**
39. **Significant Activities** (Track 5 – 00:00/00:47)

Finance/Outreach & Planning Committee Chair Adams adjourned the Committee meeting and relinquished the gavel to Chair Beruff.

## **GENERAL COUNSEL'S REPORT** (Video – 37:50)

### ***Discussion Items***

40. **Consent Item(s) Moved for Discussion** – None
41. **Approve Revisions to District's Water Use Permitting Rules (Chapters 40D-1, 40D-2, 40D-8, 40D-21, 40D-80, and Water Use Permit Basis of Review) and Associated Water Use Permit Forms in Accordance with the Department of Environmental Protection's Statewide Effort to Improve Consistency between the Water Management Districts' Consumptive/Water Use Permitting Programs and Other Necessary Changes**

Mr. Darrin Herbst, Water Use Permit Bureau Chief, noted that the Florida Department of Environmental Protection (DEP) is leading CUPcon, a statewide effort to improve consistency in the Consumptive/Water Use Permitting Programs implemented by the water management districts (WMDs). Mr. Herbst provided a brief overview of the goals

and streamlining issues. Goals included make program less confusing for applicants, particularly those who work in more than one District; treat applicants equitably statewide; consistent protection of the environment; streamline the process; and incentivize behavior that protects water resources, including conservation. Rulemaking issues addressed included types of permits and thresholds, conditions for issuance, water conservation for public water supply, reuse, administrative changes (permit application forms, re-organization of Applicant's Handbook (Basis of Review) including table of contents, 10-year compliance reports, pumpage reporting forms and other monitoring forms, and standard "limiting conditions" for permits), and clarification changes.

Staff recommended the Board approve revisions to District's Water Use Permitting rules found in Chapters 40D-1, 40D-2, 40D 8, 40D-21, 40D-80, the Water Use Permit Basis of Review, and Associated Water Use Permit Forms.

Ms. Donaldson said that, upon Board approval of the rule amendments, District staff will notify the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR) and proceed with rulemaking without further Governing Board action. If substantive comments are received from the public or reviewing entities such as OFARR or the Joint Administrative Procedures Committee, this matter will be brought back to the Governing Board for further consideration. Ms. Donaldson noted there will be a date certain when the rules become effective.

Following consideration, **Mr. Maggard moved, seconded by Mr. Babb, to approve the staff recommendation to approve revisions to District's Water Use Permitting rules found in Chapters 40D-1, 40D-2, 40D 8, 40D-21, 40D-80, the Water Use Permit Basis of Review, and Associated Water Use Permit Forms. Motion carried unanimously.** (Track 6 – 00:00/28:54)

Chair Beruff noted that Mr. Senft is available via teleconferencing. Mr. Senft acknowledged he was present. (Track 6 – 28:54/29:43)

42. **Central Florida Water Resource Development Project Partnership** (Video – 67:18)

Mr. Ken Herd, Bureau Chief, Water Resources, said this item is to provide an update to the Board regarding the development of an agreement with Polk County for the Central Florida Water Resource Development Project Partnership and provide specific concepts regarding the proposed regional water supply authority and funding options.

Mr. Herd noted that in attendance for today's presentation are Mr. Bill Beasley, Polk County Deputy Manager; and Mr. Gary Fries, Polk County Utilities Division Director.

Mr. Herd stated that, in November 2011 and January 2012, Polk County and District staff met to discuss the challenges of developing cost-effective alternative water supply options for the County and municipalities. As a result of these discussions, staff received approval at the February 28, 2012 Governing Board meeting to develop a framework for the Central Florida Water Resource Development Project Partnership. The three key agreement goals are (1) solid project(s) to develop 30 million gallons per day (mgd), (2) protected funding schedule, and (3) shared governance (water supply authority).

Mr. Herd said Polk County Utilities and the 17 municipal utilities within Polk County utilize the Upper Floridan aquifer as the principal source of water supply to meet 96 percent of existing water demands. Groundwater sources within Polk County are limited by the

Southern Water Use Caution Area Recovery Strategy, Central Florida Water Initiative interim rules, and other related rules and policies. Mr. Herd provided an overview of the three phases of project development as follows:

- Phase 1 – 10 mgd: wells, one treatment facility, one high-service pump station, and 29 miles of pipe.
- Phase 2 – 10 mgd: add wells, treatment and pumping capacity.
- Phase 3 – 10 mgd: add wells, treatment and pumping capacity. (Track 7 – 00:00/22:25)

Mr. Fritsch provided an overview of the framework for the protected funding schedule as follows: total funding commitment of \$160 million, funding timed to be available for RWSA bond sales, first \$20 million funding may be eligible to be placed in a trust (interest reduces future funding requirements; RWSA pays trust costs), annual expenditure and progress review (ensure project remains viable and on schedule; adjust funding for slippage (two years)), funding limited to 50-percent reimbursement of project costs, and unused funds in each phase reduce future phase requirements.

(Mr. Pressman left the meeting at 10:50 a.m.)

Mr. Fritsch said the benchmarks which must occur before the initial \$20 million is committed are:

- (1) Central Florida Water Resource Development Agreement (Polk County and District – 2014)
- (2) Participation Agreements (Polk County and municipalities – 2014-2015)
- (3) Water Supply Entity Agreement (Polk County and municipalities – 2016)
- (4) Central Florida Partnership Agreement (water supply entities and District – 2016)
- (5) Wellfield permit received from South Florida Water Management District
- (6) Construction of Southeast Wellfield Well 2 (Track 7 – 22:25/77:00)

The Board provided direction that benchmarks include simultaneous funding with the bonding issue. (Track 7 – 77:00/78:30)

Mr. Fritsch continued review of the timeline and benchmarks required for the total funding commitment of \$160 million (2014 through 2049). (Track 7 – 78:30/80:10)

Ms. Donaldson said, at the June 26, 2012 Governing Board meeting, staff was authorized to work with Polk County to develop the Central Florida Water Resource Development Agreement. She said staff is ready to begin drafting contract language as it relates to the proposed regional water supply authority (RWSA). Ms. Donaldson reviewed some of the components of the Central Florida Water Resource Development Agreement: creation, membership and board composition, expansion, voting rights, boundaries, mission/activities, agreements, future funding and permits, future project development, exclusive provider/unitary rate, pipeline/hydraulic capacity policy, and amendments.

Ms. Donaldson noted another component is a breach issue since the District wants a regional entity to avoid future water wars and also provides some protection since the RWSA has not been created. The disincentive should the membership requirements not be met is as follows:

- 50-percent repayment – membership composition (at least five) and demand requirements (at least 70 percent) not met through 2049.
- 25-percent repayment – meets the membership composition requirement but does not meet the demand requirements through 2049.



- 20-percent repayment – meets the demand requirements but does not meet the membership composition requirements through 2049.
- 24 months to re-achieve the requirements.

Ms. Donaldson said that, as major concepts develop, those concepts will be presented to the Board to ensure acceptability. She noted that staff will also need additional direction as it relates to the District's funding commitment. The agreement will be presented next year for the Board's consideration.

Throughout the presentation, District staff and Polk County representatives provided clarifying information in response to questions by Board members. It was suggested that, since this is an aggressive schedule, updates be provided at the Board's monthly meetings.

This item was presented for the Board's information, and no action was required. (Track 7 – 80:10/114:51)

***Submit & File Reports*** – None

***Routine Reports***

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

43. **Litigation Report**
44. **Rulemaking Update**

**COMMITTEE/LIAISON REPORTS** (Video – 182:15)

45. **Joint Industrial and Public Supply Advisory Committees Meeting** – Written report provided for the Board's information.
46. **Other Committee/Liaison Reports** – None (Track 8 – 00:00/00:39)

**EXECUTIVE DIRECTOR'S REPORT** (Video 182:57)

54. **Executive Director's Report**
  - Mr. Beltran thanked Regulation, Information Technology and Public Affairs staff for their efforts to increase online application compliance as shown through the District's metrics. He noted this is truly a Districtwide effort to make this process better for our customers. (Track 9 – 00:00/00:54)

**CHAIR'S REPORT** (Video – 183:50)

55. **Chair's Report**
  - a. **Employee Service Milestones**

This item provided a list of employees who have reached five-year increments in service to the District. This item was provided for the Board's information, and no action was required.

b. **Other**

- Chair Beruff noted that DEP Secretary Herschel Vinyard attended the Chassahowitzka springs event.
- Chair Beruff said the December Board meeting will be in the District's Tampa office. (Track 10 – 00:00/01:15)

Chair Beruff recessed the public hearing.

There being no further business to come before the Board, **Chair Beruff requested a motion to adjourn the meeting. Mr. Maggard moved, seconded by Mr. Bronson, and it carried unanimously.** (Track 10 – 01:15/01:33, Video – 185:33)

The meeting was adjourned at 12:05 p.m.

*The Southwest Florida Water Management District (District) does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the District's functions, including access to and participation in the District's programs and activities. Anyone requiring reasonable accommodation as provided for in the Americans with Disabilities Act should contact the District's Human Resources Bureau Chief, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352) 796-7211, ext. 4702, or 1-800-423-1476 (FL only), ext. 4702; TDD (FL only) 1-800-231-6103; or email to [ADACoordinator@swfwmd.state.fl.us](mailto:ADACoordinator@swfwmd.state.fl.us).*